

Union Calendar No. 60

105TH CONGRESS  
1ST Session

H. R. 5

[Report No. 105-95]

A BILL

To amend the Individuals with Disabilities Education Act, to reauthorize and make improvements to that Act, and for other purposes.

MAY 13, 1997

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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### IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 1997

Mr. GOODLING (for himself, Mr. RIGGS, Mr. CASTLE, Mr. PETRI, Mr. BALLENGER, Mr. BARRETT of Nebraska, Mr. McKEON, Mr. TALENT, Mr. GREENWOOD, Mr. KNOLLENBERG, Mr. GRAHAM, Mr. SOUDER, Mr. McINTOSH, Mr. NORWOOD, and Mr. CUNNINGHAM) introduced the following bill; which was referred to the Committee on Education and the Workforce

MAY 13, 1997

Additional sponsors: Mr. SAM JOHNSON of Texas, Mr. BONO, Mr. LATHAM, and Mr. MCGOVERN

MAY 13, 1997

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on January 7, 1997]

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## A BILL

To amend the Individuals with Disabilities Education Act, to reauthorize and make improvements to that Act, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Individuals with Dis-*  
 5 *abilities Education Act Amendments of 1997”.*

6 **TITLE I—AMENDMENTS TO THE**  
 7 **INDIVIDUALS WITH DISABIL-**  
 8 **ITIES EDUCATION ACT**

9 **SEC. 101. AMENDMENTS TO THE INDIVIDUALS WITH DIS-**  
 10 **ABILITIES EDUCATION ACT.**

11 *Parts A through D of the Individuals with Disabilities*  
 12 *Education Act (20 U.S.C. 1400 et seq.) are amended to read*  
 13 *as follows:*

14 **“PART A—GENERAL PROVISIONS**

15 **“SEC. 601. SHORT TITLE; TABLE OF CONTENTS; FINDINGS;**  
 16 **PURPOSES.**

17 *“(a) SHORT TITLE.—This Act may be cited as the ‘In-*  
 18 *dividuals with Disabilities Education Act’.*

19 *“(b) TABLE OF CONTENTS.—The table of contents for*  
 20 *this Act is as follows:*

*“PART A—GENERAL PROVISIONS*

*“Sec. 601. Short title; table of contents; findings; purposes.*

*“Sec. 602. Definitions.*

*“Sec. 603. Office of Special Education Programs.*

*“Sec. 604. Abrogation of State sovereign immunity.*

*“Sec. 605. Acquisition of equipment; construction or alteration of facilities.*

*“Sec. 606. Employment of individuals with disabilities.*

*“Sec. 607. Requirements for prescribing regulations.*

*“PART B—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES*

- “Sec. 611. Authorization; allotment; use of funds; authorization of appropriations.*
- “Sec. 612. State eligibility.*
- “Sec. 613. Local educational agency eligibility.*
- “Sec. 614. Evaluations, eligibility determinations, individualized education programs, and educational placements.*
- “Sec. 615. Procedural safeguards.*
- “Sec. 616. Withholding and judicial review.*
- “Sec. 617. Administration.*
- “Sec. 618. Program information.*
- “Sec. 619. Preschool grants.*

*“PART C—INFANTS AND TODDLERS WITH DISABILITIES*

- “Sec. 631. Findings and policy.*
- “Sec. 632. Definitions.*
- “Sec. 633. General authority.*
- “Sec. 634. Eligibility.*
- “Sec. 635. Requirements for statewide system.*
- “Sec. 636. Individualized family service plan.*
- “Sec. 637. State application and assurances.*
- “Sec. 638. Uses of funds.*
- “Sec. 639. Procedural safeguards.*
- “Sec. 640. Payor of last resort.*
- “Sec. 641. State interagency coordinating council.*
- “Sec. 642. Federal administration.*
- “Sec. 643. Allocation of funds.*
- “Sec. 644. Federal interagency coordinating council.*
- “Sec. 645. Authorization of appropriations.*

*“PART D—NATIONAL ACTIVITIES TO IMPROVE EDUCATION OF CHILDREN WITH DISABILITIES*

*“SUBPART 1—STATE PROGRAM IMPROVEMENT GRANTS FOR CHILDREN WITH DISABILITIES*

- “Sec. 651. Findings and purpose.*
- “Sec. 652. Eligibility and collaborative process.*
- “Sec. 653. Applications.*
- “Sec. 654. Use of funds.*
- “Sec. 655. Minimum State grant amounts.*
- “Sec. 656. Authorization of appropriations.*

*“SUBPART 2—COORDINATED RESEARCH, PERSONNEL PREPARATION, TECHNICAL ASSISTANCE, SUPPORT, AND DISSEMINATION OF INFORMATION*

- “Sec. 661. Administrative provisions.*

*“CHAPTER 1—IMPROVING EARLY INTERVENTION, EDUCATIONAL, AND TRANSITIONAL SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES THROUGH COORDINATED RESEARCH AND PERSONNEL PREPARATION*

- “Sec. 671. Findings and purpose.*
- “Sec. 672. Research and innovation to improve services and results for children with disabilities.*
- “Sec. 673. Personnel preparation to improve services and results for children with disabilities.*

*“Sec. 674. Studies and evaluations.*

*“CHAPTER 2—IMPROVING EARLY INTERVENTION, EDUCATIONAL, AND TRANSITIONAL SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES THROUGH COORDINATED TECHNICAL ASSISTANCE, SUPPORT, AND DISSEMINATION OF INFORMATION*

*“Sec. 681. Findings and purposes.*

*“Sec. 682. Parent training and information centers.*

*“Sec. 683. Community parent resource centers.*

*“Sec. 684. Technical assistance for parent training and information centers.*

*“Sec. 685. Coordinated technical assistance and dissemination.*

*“Sec. 686. Authorization of appropriations.*

*“Sec. 687. Technology development, demonstration, and utilization, and media services.*

1        *“(c) FINDINGS.—The Congress finds the following:*

2                *“(1) Disability is a natural part of the human*  
 3        *experience and in no way diminishes the right of in-*  
 4        *dividuals to participate in or contribute to society.*  
 5        *Improving educational results for children with dis-*  
 6        *abilities is an essential element of our national policy*  
 7        *of ensuring equality of opportunity, full participa-*  
 8        *tion, independent living, and economic self-sufficiency*  
 9        *for individuals with disabilities.*

10               *“(2) Before the date of the enactment of the Edu-*  
 11        *cation for All Handicapped Children Act of 1975*  
 12        *(Public Law 94–142)—*

13               *“(A) the special educational needs of chil-*  
 14        *dren with disabilities were not being fully met;*

15               *“(B) more than one-half of the children*  
 16        *with disabilities in the United States did not re-*  
 17        *ceive appropriate educational services that would*

1           *enable such children to have full equality of op-*  
2           *portunity;*

3           “(C) 1,000,000 of the children with disabil-  
4           *ities in the United States were excluded entirely*  
5           *from the public school system and did not go*  
6           *through the educational process with their peers;*

7           “(D) there were many children with disabil-  
8           *ities throughout the United States participating*  
9           *in regular school programs whose disabilities*  
10          *prevented such children from having a successful*  
11          *educational experience because their disabilities*  
12          *were undetected; and*

13          “(E) because of the lack of adequate services  
14          *within the public school system, families were*  
15          *often forced to find services outside the public*  
16          *school system, often at great distance from their*  
17          *residence and at their own expense.*

18          “(3) Since the enactment and implementation of  
19          *the Education for All Handicapped Children Act of*  
20          *1975, this Act has been successful in ensuring chil-*  
21          *dren with disabilities and the families of such chil-*  
22          *dren access to a free appropriate public education*  
23          *and in improving educational results for children*  
24          *with disabilities.*

1           “(4) *However, the implementation of this Act*  
2           *has been impeded by low expectations, and an insuffi-*  
3           *cient focus on applying replicable research on proven*  
4           *methods of teaching and learning for children with*  
5           *disabilities.*

6           “(5) *Over 20 years of research and experience*  
7           *has demonstrated that the education of children with*  
8           *disabilities can be made more effective by—*

9                   “(A) *having high expectations for such chil-*  
10                  *dren and ensuring their access in the general*  
11                  *curriculum to the maximum extent possible;*

12                  “(B) *strengthening the role of parents and*  
13                  *ensuring that families of such children have*  
14                  *meaningful opportunities to participate in the*  
15                  *education of their children at school and at*  
16                  *home;*

17                  “(C) *coordinating this Act with other local,*  
18                  *educational service agency, State, and Federal*  
19                  *school improvement efforts in order to ensure*  
20                  *that such children benefit from such efforts and*  
21                  *that special education can become a service for*  
22                  *such children rather than a place where they are*  
23                  *sent;*

24                  “(D) *providing appropriate special edu-*  
25                  *cation and related services and aids and sup-*

1           ports in the regular classroom to such children,  
2           whenever appropriate;

3           “(E) supporting high-quality, intensive pro-  
4           fessional development for all personnel who work  
5           with such children in order to ensure that they  
6           have the skills and knowledge necessary to enable  
7           them—

8                   “(i) to meet developmental goals and,  
9                   to the maximum extent possible, those chal-  
10                  lenging expectations that have been estab-  
11                  lished for all children; and

12                   “(ii) to be prepared to lead productive,  
13                   independent, adult lives, to the maximum  
14                   extent possible;

15           “(F) providing incentives for whole-school  
16           approaches and pre-referral intervention to re-  
17           duce the need to label children as disabled in  
18           order to address their learning needs; and

19           “(G) focusing resources on teaching and  
20           learning while reducing paperwork and require-  
21           ments that do not assist in improving edu-  
22           cational results.

23           “(6) While States, local educational agencies,  
24           and educational service agencies are responsible for  
25           providing an education for all children with disabil-



1 *ities, it is in the national interest that the Federal*  
2 *Government have a role in assisting State and local*  
3 *efforts to educate children with disabilities in order to*  
4 *improve results for such children and to ensure equal*  
5 *protection of the law.*

6 *“(7)(A) The Federal Government must be respon-*  
7 *sive to the growing needs of an increasingly more di-*  
8 *verse society. A more equitable allocation of resources*  
9 *is essential for the Federal Government to meet its re-*  
10 *sponsibility to provide an equal educational oppor-*  
11 *tunity for all individuals.*

12 *“(B) America’s racial profile is rapidly chang-*  
13 *ing. Between 1980 and 1990, the rate of increase in*  
14 *the population for white Americans was 6 percent,*  
15 *while the rate of increase for racial and ethnic mi-*  
16 *norities was much higher: 53 percent for Hispanics,*  
17 *13.2 percent for African-Americans, and 107.8 per-*  
18 *cent for Asians.*

19 *“(C) By the year 2000, this Nation will have*  
20 *275,000,000 people, nearly one of every three of whom*  
21 *will be either African-American, Hispanic, Asian-*  
22 *American, or American Indian.*

23 *“(D) Taken together as a group, minority chil-*  
24 *dren are comprising an ever larger percentage of pub-*  
25 *lic school students. Large-city school populations are*

1       *overwhelmingly minority, for example: for fall 1993,*  
2       *the figure for Miami was 84 percent; Chicago, 89 per-*  
3       *cent; Philadelphia, 78 percent; Baltimore, 84 percent;*  
4       *Houston, 88 percent; and Los Angeles, 88 percent.*

5               “(E) *Recruitment efforts within special edu-*  
6       *cation must focus on bringing larger numbers of mi-*  
7       *norities into the profession in order to provide appro-*  
8       *priate practitioner knowledge, role models, and suffi-*  
9       *cient manpower to address the clearly changing de-*  
10       *mography of special education.*

11               “(F) *The limited English proficient population*  
12       *is the fastest growing in our Nation, and the growth*  
13       *is occurring in many parts of our Nation. In the Na-*  
14       *tion’s 2 largest school districts, limited English stu-*  
15       *dents make up almost half of all students initially en-*  
16       *tering school at the kindergarten level. Studies have*  
17       *documented apparent discrepancies in the levels of re-*  
18       *ferral and placement of limited English proficient*  
19       *children in special education. The Department of*  
20       *Education has found that services provided to limited*  
21       *English proficient students often do not respond pri-*  
22       *marily to the pupil’s academic needs. These trends*  
23       *pose special challenges for special education in the re-*  
24       *ferral, assessment, and services for our Nation’s stu-*  
25       *dents from non-English language backgrounds.*

1           “(8)(A) *Greater efforts are needed to prevent the*  
2           *intensification of problems connected with mislabeling*  
3           *and high dropout rates among minority children with*  
4           *disabilities.*

5           “(B) *More minority children continue to be*  
6           *served in special education than would be expected*  
7           *from the percentage of minority students in the gen-*  
8           *eral school population.*

9           “(C) *Poor African-American children are 2.3*  
10          *times more likely to be identified by their teacher as*  
11          *having mental retardation than their white counter-*  
12          *part.*

13          “(D) *Although African-Americans represent 16*  
14          *percent of elementary and secondary enrollments, they*  
15          *constitute 21 percent of total enrollments in special*  
16          *education.*

17          “(E) *The drop-out rate is 68 percent higher for*  
18          *minorities than for whites.*

19          “(F) *More than 50 percent of minority students*  
20          *in large cities drop out of school.*

21          “(9)(A) *The opportunity for full participation in*  
22          *awards for grants and contracts; boards of organiza-*  
23          *tions receiving funds under this Act; and peer review*  
24          *panels; and training of professionals in the area of*  
25          *special education by minority individuals, organiza-*

1        *tions, and historically black colleges and universities*  
2        *is essential if we are to obtain greater success in the*  
3        *education of minority children with disabilities.*

4                *“(B) In 1993, of the 915,000 college and univer-*  
5        *sity professors, 4.9 percent were African-American*  
6        *and 2.4 percent were Hispanic. Of the 2,940,000*  
7        *teachers, prekindergarten through high school, 6.8 per-*  
8        *cent were African-American and 4.1 percent were*  
9        *Hispanic.*

10               *“(C) Students from minority groups comprise*  
11        *more than 50 percent of K–12 public school enroll-*  
12        *ment in seven States yet minority enrollment in*  
13        *teacher training programs is less than 15 percent in*  
14        *all but six States.*

15               *“(D) As the number of African-American and*  
16        *Hispanic students in special education increases, the*  
17        *number of minority teachers and related service per-*  
18        *sonnel produced in our colleges and universities con-*  
19        *tinues to decrease.*

20               *“(E) Ten years ago, 12 percent of the United*  
21        *States teaching force in public elementary and sec-*  
22        *ondary schools were members of a minority group.*  
23        *Minorities comprised 21 percent of the national popu-*  
24        *lation at that time and were clearly underrepresented*  
25        *then among employed teachers. Today, the elementary*

1       *and secondary teaching force is 13 percent minority,*  
2       *while one-third of the students in public schools are*  
3       *minority children.*

4               “(F) *As recently as 1991, historically black col-*  
5       *leges and universities enrolled 44 percent of the Afri-*  
6       *can-American teacher trainees in the Nation. How-*  
7       *ever, in 1993, historically black colleges and univer-*  
8       *sities received only 4 percent of the discretionary*  
9       *funds for special education and related services per-*  
10       *sonnel training under this Act.*

11              “(G) *While African-American students constitute*  
12       *28 percent of total enrollment in special education,*  
13       *only 11.2 percent of individuals enrolled in preservice*  
14       *training programs for special education are African-*  
15       *American.*

16              “(H) *In 1986–87, of the degrees conferred in*  
17       *education at the B.A., M.A., and Ph.D levels, only 6,*  
18       *8, and 8 percent, respectively, were awarded to Afri-*  
19       *can-American or Hispanic students.*

20              “(10) *Minorities and underserved persons are so-*  
21       *cially disadvantaged because of the lack of opportuni-*  
22       *ties in training and educational programs, under-*  
23       *girded by the practices in the private sector that im-*  
24       *pede their full participation in the mainstream of so-*  
25       *cietly.*

1 “(d) *PURPOSES.*—*The purposes of this title are—*

2 “(1)(A) *to ensure that all children with disabili-*  
3 *ties have available to them a free appropriate public*  
4 *education that emphasizes special education and re-*  
5 *lated services designed to meet their unique needs and*  
6 *prepare them for employment and independent living;*

7 “(B) *to ensure that the rights of children with*  
8 *disabilities and parents of such children are protected;*  
9 *and*

10 “(C) *to assist States, localities, educational serv-*  
11 *ice agencies, and Federal agencies to provide for the*  
12 *education of all children with disabilities;*

13 “(2) *to assist States in the implementation of a*  
14 *statewide, comprehensive, coordinated, multidisci-*  
15 *plinary, interagency system of early intervention*  
16 *services for infants and toddlers with disabilities and*  
17 *their families;*

18 “(3) *to ensure that educators and parents have*  
19 *the necessary tools to improve educational results for*  
20 *children with disabilities by supporting systemic-*  
21 *change activities; coordinated research and personnel*  
22 *preparation; coordinated technical assistance, dis-*  
23 *semination, and support; and technology development*  
24 *and media services; and*

1           “(4) to assess, and ensure the effectiveness of, ef-  
2       forts to educate children with disabilities.

3   **“SEC. 602. DEFINITIONS.**

4       *“Except as otherwise provided, as used in this Act:*

5           “(1) *ASSISTIVE TECHNOLOGY DEVICE.*—*The term*  
6       *‘assistive technology device’ means any item, piece of*  
7       *equipment, or product system, whether acquired com-*  
8       *mercially off the shelf, modified, or customized, that*  
9       *is used to increase, maintain, or improve functional*  
10      *capabilities of a child with a disability.*

11          “(2) *ASSISTIVE TECHNOLOGY SERVICE.*—*The*  
12      *term ‘assistive technology service’ means any service*  
13      *that directly assists a child with a disability in the*  
14      *selection, acquisition, or use of an assistive technology*  
15      *device. Such term includes—*

16           “(A) *the evaluation of the needs of such*  
17      *child, including a functional evaluation of the*  
18      *child in the child’s customary environment;*

19           “(B) *purchasing, leasing, or otherwise pro-*  
20      *viding for the acquisition of assistive technology*  
21      *devices by such child;*

22           “(C) *selecting, designing, fitting, customiz-*  
23      *ing, adapting, applying, maintaining, repairing,*  
24      *or replacing of assistive technology devices;*

1           “(D) coordinating and using other thera-  
2           pies, interventions, or services with assistive  
3           technology devices, such as those associated with  
4           existing education and rehabilitation plans and  
5           programs;

6           “(E) training or technical assistance for  
7           such child, or, where appropriate, the family of  
8           such child; and

9           “(F) training or technical assistance for  
10          professionals (including individuals providing  
11          education and rehabilitation services), employ-  
12          ers, or other individuals who provide services to,  
13          employ, or are otherwise substantially involved  
14          in the major life functions of such child.

15         “(3) CHILD WITH A DISABILITY.—

16                 “(A) IN GENERAL.—The term ‘child with a  
17                 disability’ means a child—

18                         “(i) with mental retardation, hearing  
19                         impairments (including deafness), speech or  
20                         language impairments, visual impairments  
21                         (including blindness), serious emotional dis-  
22                         turbance (hereinafter referred to as ‘emo-  
23                         tional disturbance’), orthopedic impair-  
24                         ments, autism, traumatic brain injury,



1            *other health impairments, or specific learn-*  
 2            *ing disabilities; and*

3            *“(ii) who, by reason thereof, needs spe-*  
 4            *cial education and related services.*

5            *“(B) CHILD AGED 3 THROUGH 9.—The term*  
 6            *‘child with a disability’ for a child aged 3*  
 7            *through 9 may, at the discretion of the State and*  
 8            *the local educational agency, include a child—*

9            *“(i) experiencing developmental delays,*  
 10           *as defined by the State and as measured by*  
 11           *appropriate diagnostic instruments and*  
 12           *procedures, in one or more of the following*  
 13           *areas: physical development, cognitive devel-*  
 14           *opment, communication development, social*  
 15           *or emotional development, or adaptive de-*  
 16           *velopment; and*

17           *“(ii) who, by reason thereof, needs spe-*  
 18           *cial education and related services.*

19           *“(4) EDUCATIONAL SERVICE AGENCY.—The term*  
 20           *‘educational service agency’—*

21           *“(A) means a regional public multiservice*  
 22           *agency—*

23           *“(i) authorized by State law to de-*  
 24           *velop, manage, and provide services or pro-*  
 25           *grams to local educational agencies; and*

1           “(ii) *recognized as an administrative*  
2           *agency for purposes of the provision of spe-*  
3           *cial education and related services provided*  
4           *within public elementary and secondary*  
5           *schools of the State; and*

6           “(B) *includes any other public institution*  
7           *or agency having administrative control and di-*  
8           *rection over a public elementary or secondary*  
9           *school.*

10          “(5) *ELEMENTARY SCHOOL.—The term ‘elemen-*  
11          *tary school’ means a nonprofit institutional day or*  
12          *residential school that provides elementary education,*  
13          *as determined under State law.*

14          “(6) *EQUIPMENT.—The term ‘equipment’ in-*  
15          *cludes—*

16               “(A) *machinery, utilities, and built-in*  
17               *equipment and any necessary enclosures or*  
18               *structures to house such machinery, utilities, or*  
19               *equipment; and*

20               “(B) *all other items necessary for the func-*  
21               *tioning of a particular facility as a facility for*  
22               *the provision of educational services, including*  
23               *items such as instructional equipment and nec-*  
24               *essary furniture; printed, published, and audio-*  
25               *visual instructional materials; telecommuni-*

1            *cations, sensory, and other technological aids*  
 2            *and devices; and books, periodicals, documents,*  
 3            *and other related materials.*

4            “(7) *EXCESS COSTS.*—*The term ‘excess costs’*  
 5            *means those costs that are in excess of the average an-*  
 6            *nual per-student expenditure in a local educational*  
 7            *agency during the preceding school year for an ele-*  
 8            *mentary or secondary school student, as may be ap-*  
 9            *propriate, and which shall be computed after deduct-*  
 10           *ing—*

11                    “(A) *amounts received—*

12                            “(i) *under part B of this title;*

13                            “(ii) *under part A of title I of the Ele-*  
 14                            *mentary and Secondary Education Act of*  
 15                            *1965; or*

16                            “(iii) *under part A of title VII of that*  
 17                            *Act; and*

18                            “(B) *any State or local funds expended for*  
 19                            *programs that would qualify for assistance under*  
 20                            *any of those parts.*

21            “(8) *FREE APPROPRIATE PUBLIC EDUCATION.*—  
 22            *The term ‘free appropriate public education’ means*  
 23            *special education and related services that—*

1           “(A) have been provided at public expense,  
2           under public supervision and direction, and  
3           without charge;

4           “(B) meet the standards of the State edu-  
5           cational agency;

6           “(C) include an appropriate preschool, ele-  
7           mentary, or secondary school education in the  
8           State involved; and

9           “(D) are provided in conformity with the  
10          individualized education program required  
11          under section 614(d).

12          “(9) *INDIAN*.—The term ‘Indian’ means an indi-  
13          vidual who is a member of an Indian tribe.

14          “(10) *INDIAN TRIBE*.—The term ‘Indian tribe’  
15          means any Federal or State Indian tribe, band,  
16          rancheria, pueblo, colony, or community, including  
17          any Alaskan Native village or regional village cor-  
18          poration (as defined in or established under the *Alas-*  
19          *ka Native Claims Settlement Act*).

20          “(11) *INDIVIDUALIZED EDUCATION PROGRAM*.—  
21          The term ‘individualized education program’ or ‘IEP’  
22          means a written statement for each child with a dis-  
23          ability that is developed, reviewed, and revised in ac-  
24          cordance with section 614(d).

1           “(12) *INDIVIDUALIZED FAMILY SERVICE PLAN*.—  
 2           *The term ‘individualized family service plan’ has the*  
 3           *meaning given such term in section 632.*

4           “(13) *INFANT OR TODDLER WITH A DISABIL-*  
 5           *ITY*.—*The term ‘infant or toddler with a disability’*  
 6           *has the meaning given such term in section 632.*

7           “(14) *INSTITUTION OF HIGHER EDUCATION*.—  
 8           *The term ‘institution of higher education’—*

9                   “(A) *has the meaning given that term in*  
 10           *section 1201(a) of the Higher Education Act of*  
 11           *1965; and*

12                   “(B) *also includes any community college*  
 13           *receiving funding from the Secretary of the Inte-*  
 14           *rior under the Tribally Controlled Community*  
 15           *College Assistance Act of 1978.*

16           “(15) *LOCAL EDUCATIONAL AGENCY*.—

17                   “(A) *The term ‘local educational agency’*  
 18           *means a public board of education or other pub-*  
 19           *lic authority legally constituted within a State*  
 20           *for either administrative control or direction of,*  
 21           *or to perform a service function for, public ele-*  
 22           *mentary or secondary schools in a city, county,*  
 23           *township, school district, or other political sub-*  
 24           *division of a State, or for such combination of*  
 25           *school districts or counties as are recognized in*

1           *a State as an administrative agency for its pub-*  
2           *lic elementary or secondary schools.*

3           “(B) *The term includes—*

4                   “(i) *an educational service agency, as*  
5                   *defined in paragraph (4); and*

6                   “(ii) *any other public institution or*  
7                   *agency having administrative control and*  
8                   *direction of a public elementary or second-*  
9                   *ary school.*

10           “(C) *The term includes an elementary or*  
11           *secondary school funded by the Bureau of Indian*  
12           *Affairs, but only to the extent that such inclusion*  
13           *makes the school eligible for programs for which*  
14           *specific eligibility is not provided to the school in*  
15           *another provision of law and the school does not*  
16           *have a student population that is smaller than*  
17           *the student population of the local educational*  
18           *agency receiving assistance under this Act with*  
19           *the smallest student population, except that the*  
20           *school shall not be subject to the jurisdiction of*  
21           *any State educational agency other than the Bu-*  
22           *reau of Indian Affairs.*

23           “(16) *NATIVE LANGUAGE.—The term ‘native lan-*  
24           *guage’, when used with reference to an individual of*  
25           *limited English proficiency, means the language nor-*

1 *mally used by the individual, or in the case of a*  
 2 *child, the language normally used by the parents of*  
 3 *the child.*

4 “(17) *NONPROFIT*.—The term ‘nonprofit’, as ap-  
 5 *plied to a school, agency, organization, or institution,*  
 6 *means a school, agency, organization, or institution*  
 7 *owned and operated by one or more nonprofit cor-*  
 8 *porations or associations no part of the net earnings*  
 9 *of which inures, or may lawfully inure, to the benefit*  
 10 *of any private shareholder or individual.*

11 “(18) *OUTLYING AREA*.—The term ‘outlying  
 12 *area’ means the United States Virgin Islands, Guam,*  
 13 *American Samoa, and the Commonwealth of the*  
 14 *Northern Mariana Islands.*

15 “(19) *PARENT*.—The term ‘parent’—

16 “(A) *includes a legal guardian; and*

17 “(B) *except as used in sections 615(b)(2)*  
 18 *and 639(a)(5), includes an individual assigned*  
 19 *under either of those sections to be a surrogate*  
 20 *parent.*

21 “(20) *PARENT ORGANIZATION*.—The term ‘par-  
 22 *ent organization’ has the meaning given that term in*  
 23 *section 682(g).*

24 “(21) *PARENT TRAINING AND INFORMATION CEN-*  
 25 *TER*.—The term ‘parent training and information

1       *center’ means a center assisted under section 682 or*  
2       *683.*

3               “(22) *RELATED SERVICES.*—*The term ‘related*  
4       *services’ means transportation, and such developmen-*  
5       *tal, corrective, and other supportive services (includ-*  
6       *ing speech-language pathology and audiology services,*  
7       *psychological services, physical and occupational ther-*  
8       *apy, recreation, including therapeutic recreation, so-*  
9       *cial work services, counseling services, including reha-*  
10       *bilitation counseling, orientation and mobility serv-*  
11       *ices, and medical services, except that such medical*  
12       *services shall be for diagnostic and evaluation pur-*  
13       *poses only) as may be required to assist a child with*  
14       *a disability to benefit from special education, and in-*  
15       *cludes the early identification and assessment of dis-*  
16       *abling conditions in children.*

17               “(23) *SECONDARY SCHOOL.*—*The term ‘second-*  
18       *ary school’ means a nonprofit institutional day or*  
19       *residential school that provides secondary education,*  
20       *as determined under State law, except that it does not*  
21       *include any education beyond grade 12.*

22               “(24) *SECRETARY.*—*The term ‘Secretary’ means*  
23       *the Secretary of Education.*

24               “(25) *SPECIAL EDUCATION.*—*The term ‘special*  
25       *education’ means specially designed instruction, at no*



1 *cost to parents, to meet the unique needs of a child*  
 2 *with a disability, including—*

3 *“(A) instruction conducted in the classroom,*  
 4 *in the home, in hospitals and institutions, and*  
 5 *in other settings; and*

6 *“(B) instruction in physical education.*

7 *“(26) SPECIFIC LEARNING DISABILITY.—*

8 *“(A) IN GENERAL.—The term ‘specific*  
 9 *learning disability’ means a disorder in one or*  
 10 *more of the basic psychological processes involved*  
 11 *in understanding or in using language, spoken*  
 12 *or written, which disorder may manifest itself in*  
 13 *imperfect ability to listen, think, speak, read,*  
 14 *write, spell, or do mathematical calculations.*

15 *“(B) DISORDERS INCLUDED.—Such term*  
 16 *includes such conditions as perceptual disabil-*  
 17 *ities, brain injury, minimal brain dysfunction,*  
 18 *dyslexia, and developmental aphasia.*

19 *“(C) DISORDERS NOT INCLUDED.—Such*  
 20 *term does not include a learning problem that is*  
 21 *primarily the result of visual, hearing, or motor*  
 22 *disabilities, of mental retardation, of emotional*  
 23 *disturbance, or of environmental, cultural, or*  
 24 *economic disadvantage.*

1           “(27) *STATE*.—The term ‘State’ means each of  
 2           the 50 States, the District of Columbia, the Common-  
 3           wealth of Puerto Rico, and each of the outlying areas.

4           “(28) *STATE EDUCATIONAL AGENCY*.—The term  
 5           ‘State educational agency’ means the State board of  
 6           education or other agency or officer primarily respon-  
 7           sible for the State supervision of public elementary  
 8           and secondary schools, or, if there is no such officer  
 9           or agency, an officer or agency designated by the Gov-  
 10          ernor or by State law.

11          “(29) *SUPPLEMENTARY AIDS AND SERVICES*.—  
 12          The term ‘supplementary aids and services’ means,  
 13          aids, services, and other supports that are provided in  
 14          regular education classes or other education-related  
 15          settings to enable children with disabilities to be edu-  
 16          cated with nondisabled children to the maximum ex-  
 17          tent appropriate in accordance with section  
 18          612(a)(5).

19          “(30) *TRANSITION SERVICES*.—The term ‘transi-  
 20          tion services’ means a coordinated set of activities for  
 21          a student with a disability that—

22                 “(A) are designed within an outcome-ori-  
 23                 ented process, which promotes movement from  
 24                 school to post-school activities, including post-  
 25                 secondary education, vocational training, inte-

1           *grated employment (including supported employ-*  
 2           *ment), continuing and adult education, adult*  
 3           *services, independent living, or community par-*  
 4           *ticipation;*

5           *“(B) are based upon the individual stu-*  
 6           *dent’s needs, taking into account the student’s*  
 7           *preferences and interests; and*

8           *“(C) include instruction, related services,*  
 9           *community experiences, the development of em-*  
 10          *ployment and other post-school adult living ob-*  
 11          *jectives, and, when appropriate, acquisition of*  
 12          *daily living skills and functional vocational*  
 13          *evaluation.*

14   **“SEC. 603. OFFICE OF SPECIAL EDUCATION PROGRAMS.**

15          *“(a) ESTABLISHMENT.—There shall be, within the Of-*  
 16          *fice of Special Education and Rehabilitative Services in the*  
 17          *Department of Education, an Office of Special Education*  
 18          *Programs, which shall be the principal agency in such De-*  
 19          *partment for administering and carrying out this Act and*  
 20          *other programs and activities concerning the education of*  
 21          *children with disabilities.*

22          *“(b) DIRECTOR.—The Office established under sub-*  
 23          *section (a) shall be headed by a Director who shall be se-*  
 24          *lected by the Secretary and shall report directly to the As-*

1 *sistant Secretary for Special Education and Rehabilitative*  
 2 *Services.*

3 “(c) *VOLUNTARY AND UNCOMPENSATED SERVICES.*—  
 4 *Notwithstanding section 1342 of title 31, United States*  
 5 *Code, the Secretary is authorized to accept voluntary and*  
 6 *uncompensated services in furtherance of the purposes of*  
 7 *this Act.*

8 **“SEC. 604. ABROGATION OF STATE SOVEREIGN IMMUNITY.**

9 “(a) *IN GENERAL.*—*A State shall not be immune*  
 10 *under the eleventh amendment to the Constitution of the*  
 11 *United States from suit in Federal court for a violation*  
 12 *of this Act.*

13 “(b) *REMEDIES.*—*In a suit against a State for a viola-*  
 14 *tion of this Act, remedies (including remedies both at law*  
 15 *and in equity) are available for such a violation to the same*  
 16 *extent as those remedies are available for such a violation*  
 17 *in the suit against any public entity other than a State.*

18 “(c) *EFFECTIVE DATE.*—*Subsections (a) and (b) apply*  
 19 *with respect to violations that occur in whole or part after*  
 20 *the date of the enactment of the Education of the Handi-*  
 21 *capped Act Amendments of 1990.*

22 **“SEC. 605. ACQUISITION OF EQUIPMENT; CONSTRUCTION**  
 23 **OR ALTERATION OF FACILITIES.**

24 “(a) *IN GENERAL.*—*If the Secretary determines that*  
 25 *a program authorized under this Act would be improved*

1 *by permitting program funds to be used to acquire appro-*  
 2 *priate equipment, or to construct new facilities or alter ex-*  
 3 *isting facilities, the Secretary is authorized to allow the use*  
 4 *of those funds for those purposes.*

5 “(b) *COMPLIANCE WITH CERTAIN REGULATIONS.—*  
 6 *Any construction of new facilities or alteration of existing*  
 7 *facilities under subsection (a) shall comply with the require-*  
 8 *ments of—*

9 “(1) *appendix A of part 36 of title 28, Code of*  
 10 *Federal Regulations (commonly known as the ‘Ameri-*  
 11 *cans with Disabilities Accessibility Guidelines for*  
 12 *Buildings and Facilities’); or*

13 “(2) *appendix A of part 101-19.6 of title 41,*  
 14 *Code of Federal Regulations (commonly known as the*  
 15 *‘Uniform Federal Accessibility Standards’).*

16 **“SEC. 606. EMPLOYMENT OF INDIVIDUALS WITH DISABIL-**  
 17 **ITIES.**

18 “*The Secretary shall ensure that each recipient of as-*  
 19 *sistance under this Act makes positive efforts to employ and*  
 20 *advance in employment qualified individuals with disabil-*  
 21 *ities in programs assisted under this Act.*

22 **“SEC. 607. REQUIREMENTS FOR PRESCRIBING REGULA-**  
 23 **TIONS.**

24 “(a) *PUBLIC COMMENT PERIOD.—The Secretary shall*  
 25 *provide a public comment period of at least 90 days on*

1 *any regulation proposed under part B or part C of this*  
 2 *Act on which an opportunity for public comment is other-*  
 3 *wise required by law.*

4 “(b) *PROTECTIONS PROVIDED TO CHILDREN.—The*  
 5 *Secretary may not implement, or publish in final form, any*  
 6 *regulation prescribed pursuant to this Act that would proce-*  
 7 *durally or substantively lessen the protections provided to*  
 8 *children with disabilities under this Act, as embodied in*  
 9 *regulations in effect on July 20, 1983 (particularly as such*  
 10 *protections relate to parental consent to initial evaluation*  
 11 *or initial placement in special education, least restrictive*  
 12 *environment, related services, timelines, attendance of eval-*  
 13 *uation personnel at individualized education program*  
 14 *meetings, or qualifications of personnel), except to the extent*  
 15 *that such regulation reflects the clear and unequivocal in-*  
 16 *tent of the Congress in legislation.*

17 “(c) *POLICY LETTERS AND STATEMENTS.—The Sec-*  
 18 *retary may not, through policy letters or other statements,*  
 19 *establish a rule that is required for compliance with, and*  
 20 *eligibility under, this part without following the require-*  
 21 *ments of section 553 of title 5, United States Code.*

22 “(d) *CORRESPONDENCE FROM DEPARTMENT OF EDU-*  
 23 *CATION DESCRIBING INTERPRETATIONS OF THIS PART.—*

24 “(1) *IN GENERAL.—The Secretary shall, on a*  
 25 *quarterly basis, publish in the Federal Register, and*

1        *widely disseminate to interested entities through var-*  
 2        *ious additional forms of communication, a list of cor-*  
 3        *respondence from the Department of Education re-*  
 4        *ceived by individuals during the previous quarter*  
 5        *that describes the interpretations of the Department of*  
 6        *Education of this Act or the regulations implemented*  
 7        *pursuant to this Act.*

8                “(2) *ADDITIONAL INFORMATION.—For each item*  
 9        *of correspondence published in a list under paragraph*  
 10        *(1), the Secretary shall identify the topic addressed by*  
 11        *the correspondence and shall include such other sum-*  
 12        *mary information as the Secretary determines to be*  
 13        *appropriate.*

14                “(e) *ISSUES OF NATIONAL SIGNIFICANCE.—If the Sec-*  
 15        *retary receives a written request regarding a policy, ques-*  
 16        *tion, or interpretation under part B of this Act, and deter-*  
 17        *mines that it raises an issue of general interest or applica-*  
 18        *bility of national significance to the implementation of part*  
 19        *B, the Secretary shall—*

20                “(1) *include a statement to that effect in any*  
 21        *written response;*

22                “(2) *widely disseminate that response to State*  
 23        *educational agencies, local educational agencies, par-*  
 24        *ent and advocacy organizations, and other interested*

1       organizations, subject to applicable laws relating to  
2       confidentiality of information; and

3               “(3) not later than one year after the date on  
4       which the Secretary responds to the written request,  
5       issue written guidance on such policy, question, or in-  
6       terpretation through such means as the Secretary de-  
7       termines to be appropriate and consistent with law,  
8       such as a policy memorandum, notice of interpreta-  
9       tion, or notice of proposed rulemaking.

10       “(f) *EXPLANATION.*—Any written response by the Sec-  
11       retary under subsection (e) regarding a policy, question, or  
12       interpretation under part B of this Act shall include an  
13       explanation that the written response—

14               “(1) is provided as informal guidance and is not  
15       legally binding; and

16               “(2) represents the interpretation by the Depart-  
17       ment of Education of the applicable statutory or regu-  
18       latory requirements in the context of the specific facts  
19       presented.

20       **“PART B—ASSISTANCE FOR EDUCATION OF ALL**  
21               **CHILDREN WITH DISABILITIES**

22       **“SEC. 611. AUTHORIZATION; ALLOTMENT; USE OF FUNDS;**  
23               **AUTHORIZATION OF APPROPRIATIONS.**

24       “(a) *GRANTS TO STATES.*—



1           “(1) *PURPOSE OF GRANTS.*—*The Secretary shall*  
 2           *make grants to States and the outlying areas, and*  
 3           *provide funds to the Secretary of the Interior, to as-*  
 4           *sist them to provide special education and related*  
 5           *services to children with disabilities in accordance*  
 6           *with this part.*

7           “(2) *MAXIMUM AMOUNTS.*—*The maximum*  
 8           *amount of the grant a State may receive under this*  
 9           *section for any fiscal year is—*

10               “(A) *the number of children with disabil-*  
 11               *ities in the State who are receiving special edu-*  
 12               *cation and related services—*

13                       “(i) *aged three through five if the State*  
 14                       *is eligible for a grant under section 619;*  
 15                       *and*

16                       “(ii) *aged six through 21; multiplied*  
 17                       *by*

18                       “(B) *40 percent of the average per-pupil ex-*  
 19                       *penditure in public elementary and secondary*  
 20                       *schools in the United States.*

21           “(b) *OUTLYING AREAS AND FREELY ASSOCIATED*  
 22           *STATES.—*

23               “(1) *FUNDS RESERVED.*—*From the amount ap-*  
 24               *propriated for any fiscal year under subsection (j),*

1       *the Secretary shall reserve not more than one percent,*  
 2       *which shall be used—*

3               “(A) *to provide assistance to the outlying*  
 4               *areas in accordance with their respective popu-*  
 5               *lations of individuals aged three through 21; and*

6               “(B) *for fiscal years 1998 through 2001, to*  
 7               *carry out the competition described in para-*  
 8               *graph (2), except that the amount reserved to*  
 9               *carry out that competition shall not exceed the*  
 10              *amount reserved for fiscal year 1996 for the com-*  
 11              *petition under part B of this Act described under*  
 12              *the heading “SPECIAL EDUCATION” in Pub-*  
 13              *lic Law 104–134.*

14              “(2) *LIMITATION FOR FREELY ASSOCIATED*  
 15              *STATES.—*

16              “(A) *COMPETITIVE GRANTS.—The Secretary*  
 17              *shall use funds described in paragraph (1)(B) to*  
 18              *award grants, on a competitive basis, to Guam,*  
 19              *American Samoa, the Commonwealth of the*  
 20              *Northern Mariana Islands, and the freely associ-*  
 21              *ated States to carry out the purposes of this*  
 22              *part.*

23              “(B) *AWARD BASIS.—The Secretary shall*  
 24              *award grants under subparagraph (A) on a com-*  
 25              *petitive basis, pursuant to the recommendations*

1       *of the Pacific Region Educational Laboratory in*  
2       *Honolulu, Hawaii. Those recommendations shall*  
3       *be made by experts in the field of special edu-*  
4       *cation and related services.*

5               “(C) *ASSISTANCE REQUIREMENTS.—Any*  
6       *freely associated State that wishes to receive*  
7       *funds under this part shall include, in its appli-*  
8       *cation for assistance—*

9               “(i) *information demonstrating that it*  
10       *will meet all conditions that apply to States*  
11       *under this part;*

12              “(ii) *an assurance that, notwithstand-*  
13       *ing any other provision of this part, it will*  
14       *use those funds only for the direct provision*  
15       *of special education and related services to*  
16       *children with disabilities and to enhance its*  
17       *capacity to make a free appropriate public*  
18       *education available to all children with dis-*  
19       *abilities;*

20              “(iii) *identify the source and amount*  
21       *of funds, in addition to funds under this*  
22       *part, that it will make available to ensure*  
23       *that a free appropriate public education is*  
24       *available to all children with disabilities*  
25       *within its jurisdiction; and*

1                   “(iv) such other information and as-  
2                   surances as the Secretary may require.

3                   “(D) *TERMINATION OF ELIGIBILITY.*—Not-  
4                   withstanding any other provision of law, the  
5                   freely associated States shall not receive any  
6                   funds under this part for any program year that  
7                   begins after September 30, 2001.

8                   “(E) *ADMINISTRATIVE COSTS.*—The Sec-  
9                   retary may provide not more than five percent  
10                  of the amount reserved for grants under this  
11                  paragraph to pay the administrative costs of the  
12                  Pacific Region Educational Laboratory under  
13                  subparagraph (B).

14                  “(3) *LIMITATION.*—An outlying area is not eligi-  
15                  ble for a competitive award under paragraph (2) un-  
16                  less it receives assistance under paragraph (1)(A).

17                  “(4) *SPECIAL RULE.*—The provisions of Public  
18                  Law 95–134, permitting the consolidation of grants  
19                  by the outlying areas, shall not apply to funds pro-  
20                  vided to those areas or to the freely associated States  
21                  under this section.

22                  “(5) *ELIGIBILITY FOR DISCRETIONARY PRO-*  
23                  *GRAMS.*—The freely associated States shall be eligible  
24                  to receive assistance under subpart 2 of part D of this  
25                  Act until September 30, 2001.

1           “(6) *DEFINITION.*—*As used in this subsection,*  
 2           *the term ‘freely associated States’ means the Republic*  
 3           *of the Marshall Islands, the Federated States of Mi-*  
 4           *cronesia, and the Republic of Palau.*

5           “(c) *SECRETARY OF THE INTERIOR.*—*From the*  
 6           *amount appropriated for any fiscal year under subsection*  
 7           *(j), the Secretary shall reserve 1.226 percent to provide as-*  
 8           *sistance to the Secretary of the Interior in accordance with*  
 9           *subsection (i).*

10          “(d) *ALLOCATIONS TO STATES.*—

11               “(1) *IN GENERAL.*—*After reserving funds for*  
 12               *studies and evaluations under section 674(e), and for*  
 13               *payments to the outlying areas and the Secretary of*  
 14               *the Interior under subsections (b) and (c), the Sec-*  
 15               *retary shall allocate the remaining amount among the*  
 16               *States in accordance with paragraph (2) or sub-*  
 17               *section (e), as the case may be.*

18               “(2) *INTERIM FORMULA.*—*Except as provided in*  
 19               *subsection (e), the Secretary shall allocate the amount*  
 20               *described in paragraph (1) among the States in ac-*  
 21               *cordance with section 611(a)(3), (4), and (5) and*  
 22               *(b)(1), (2), and (3) of this Act, as in effect prior to*  
 23               *the enactment of the Individuals with Disabilities*  
 24               *Education Act Amendments of 1997, except that the*  
 25               *determination of the number of children with disabil-*

ities receiving special education and related services under such section 611(a)(3) may, at the State's discretion, be calculated as of the last Friday in October or as of December 1 of the fiscal year for which the funds are appropriated.

“(e) *PERMANENT FORMULA.*—

“(1) *ESTABLISHMENT OF BASE YEAR.*—The Secretary shall allocate the amount described in subsection (d)(1) among the States in accordance with this subsection for each fiscal year beginning with the first fiscal year for which the amount appropriated under subsection (j) is more than \$4,924,672,200.

“(2) *USE OF BASE YEAR.*—

“(A) *DEFINITION.*—As used in this subsection, the term ‘base year’ means the fiscal year preceding the first fiscal year in which this subsection applies.

“(B) *SPECIAL RULE FOR USE OF BASE YEAR AMOUNT.*—If a State received any funds under this section for the base year on the basis of children aged three through five, but does not make a free appropriate public education available to all children with disabilities aged three through five in the State in any subsequent fiscal year, the Secretary shall compute the State's base

1           year amount, solely for the purpose of calculat-  
 2           ing the State’s allocation in that subsequent year  
 3           under paragraph (3) or (4), by subtracting the  
 4           amount allocated to the State for the base year  
 5           on the basis of those children.

6           “(3) INCREASE IN FUNDS.—If the amount avail-  
 7           able for allocations to States under paragraph (1) is  
 8           equal to or greater than the amount allocated to the  
 9           States under this paragraph for the preceding fiscal  
 10          year, those allocations shall be calculated as follows:

11                   “(A)(i) Except as provided in subparagraph  
 12                   (B), the Secretary shall—

13                           “(I) allocate to each State the amount  
 14                           it received for the base year;

15                           “(II) allocate 85 percent of any re-  
 16                           maining funds to States on the basis of  
 17                           their relative populations of children aged 3  
 18                           through 21 who are of the same age as chil-  
 19                           dren with disabilities for whom the State  
 20                           ensures the availability of a free appro-  
 21                           priate public education under this part;  
 22                           and

23                           “(III) allocate 15 percent of those re-  
 24                           maining funds to States on the basis of  
 25                           their relative populations of children de-

1           *scribed in subclause (II) who are living in*  
 2           *poverty.*

3           *“(ii) For the purpose of making grants*  
 4           *under this paragraph, the Secretary shall use the*  
 5           *most recent population data, including data on*  
 6           *children living in poverty, that are available and*  
 7           *satisfactory to the Secretary.*

8           *“(B) Notwithstanding subparagraph (A),*  
 9           *allocations under this paragraph shall be subject*  
 10          *to the following:*

11           *“(i) No State’s allocation shall be less*  
 12           *than its allocation for the preceding fiscal*  
 13           *year.*

14           *“(ii) No State’s allocation shall be less*  
 15           *than the greatest of—*

16           *“(I) the sum of—*

17           *“(aa) the amount it received*  
 18           *for the base year; and*

19           *“(bb) one third of one percent*  
 20           *of the amount by which the*  
 21           *amount appropriated under sub-*  
 22           *section (j) exceeds the amount ap-*  
 23           *propriated under this section for*  
 24           *the base year;*

25           *“(II) the sum of—*



1                   “(aa) the amount it received  
2                   for the preceding fiscal year; and

3                   “(bb) that amount multiplied  
4                   by the percentage by which the in-  
5                   crease in the funds appropriated  
6                   from the preceding fiscal year ex-  
7                   ceeds 1.5 percent; or

8                   “(III) the sum of—

9                   “(aa) the amount it received  
10                  for the preceding fiscal year; and

11                  “(bb) that amount multiplied  
12                  by 90 percent of the percentage  
13                  increase in the amount appro-  
14                  priated from the preceding fiscal  
15                  year.

16                  “(iii) Notwithstanding clause (ii), no  
17                  State’s allocation under this paragraph  
18                  shall exceed the sum of—

19                  “(I) the amount it received for the  
20                  preceding fiscal year; and

21                  “(II) that amount multiplied by  
22                  the sum of 1.5 percent and the percent-  
23                  age increase in the amount appro-  
24                  priated.

1           “(C) *If the amount available for allocations*  
2           *under this paragraph is insufficient to pay those*  
3           *allocations in full, those allocations shall be rat-*  
4           *ably reduced, subject to subparagraph (B)(i).*

5           “(4) *DECREASE IN FUNDS.—If the amount avail-*  
6           *able for allocations to States under paragraph (1) is*  
7           *less than the amount allocated to the States under*  
8           *this section for the preceding fiscal year, those alloca-*  
9           *tions shall be calculated as follows:*

10           “(A) *If the amount available for allocations*  
11           *is greater than the amount allocated to the*  
12           *States for the base year, each State shall be allo-*  
13           *cated the sum of—*

14                   “(i) *the amount it received for the base*  
15                   *year; and*

16                   “(ii) *an amount that bears the same*  
17                   *relation to any remaining funds as the in-*  
18                   *crease the State received for the preceding*  
19                   *fiscal year over the base year bears to the*  
20                   *total of all such increases for all States.*

21           “(B)(i) *If the amount available for alloca-*  
22           *tions is equal to or less than the amount allo-*  
23           *cated to the States for the base year, each State*  
24           *shall be allocated the amount it received for the*  
25           *base year.*

1           “(ii) *If the amount available is insufficient*  
 2           *to make the allocations described in clause (i),*  
 3           *those allocations shall be ratably reduced.*

4           “(f) *STATE-LEVEL ACTIVITIES.*—

5           “(1) *GENERAL.*—

6           “(A) *Each State may retain not more than*  
 7           *the amount described in subparagraph (B) for*  
 8           *administration and other State-level activities in*  
 9           *accordance with paragraphs (2) and (3).*

10          “(B) *For each fiscal year, the Secretary*  
 11          *shall determine and report to the State edu-*  
 12          *cational agency an amount that is 25 percent of*  
 13          *the amount the State received under this section*  
 14          *for fiscal year 1997, cumulatively adjusted by*  
 15          *the Secretary for each succeeding fiscal year by*  
 16          *the lesser of—*

17               “(i) *the percentage increase, if any,*  
 18               *from the preceding fiscal year in the State’s*  
 19               *allocation under this section; or*

20               “(ii) *the rate of inflation, as measured*  
 21               *by the percentage increase, if any, from the*  
 22               *preceding fiscal year in the Consumer Price*  
 23               *Index For All Urban Consumers, published*  
 24               *by the Bureau of Labor Statistics of the De-*  
 25               *partment of Labor.*

1           “(C) *A State may use funds it retains*  
 2           *under subparagraph (A) without regard to—*

3                   “(i) *the prohibition on commingling of*  
 4                   *funds in section 612(a)(18)(B); and*

5                   “(ii) *the prohibition on supplanting*  
 6                   *other funds in section 612(a)(18)(C).*

7           “(2) *STATE ADMINISTRATION.—*

8                   “(A) *For the purpose of administering this*  
 9                   *part, including section 619 (including the co-*  
 10                   *ordination of activities under this part with,*  
 11                   *and providing technical assistance to, other pro-*  
 12                   *grams that provide services to children with dis-*  
 13                   *abilities)—*

14                   “(i) *each State may use not more than*  
 15                   *twenty percent of the maximum amount it*  
 16                   *may retain under paragraph (1)(A) for any*  
 17                   *fiscal year or \$500,000 (adjusted by the cu-*  
 18                   *mulative rate of inflation since fiscal year*  
 19                   *1998, as measured by the percentage in-*  
 20                   *crease, if any, in the Consumer Price Index*  
 21                   *For All Urban Consumers, published by the*  
 22                   *Bureau of Labor Statistics of the Depart-*  
 23                   *ment of Labor), whichever is greater; and*

24                   “(ii) *each outlying area may use up to*  
 25                   *five percent of the amount it receives under*

1            *this section for any fiscal year or \$35,000,*  
 2            *whichever is greater.*

3            *“(B) Funds described in subparagraph (A)*  
 4            *may also be used for the administration of part*  
 5            *C of this Act, if the State educational agency is*  
 6            *the lead agency for the State under that part.*

7            *“(3) OTHER STATE-LEVEL ACTIVITIES.—Each*  
 8            *State shall use any funds it retains under paragraph*  
 9            *(1) and does not use for administration under para-*  
 10           *graph (2) for any of the following:*

11           *“(A) Support and direct services, including*  
 12           *technical assistance and personnel development*  
 13           *and training.*

14           *“(B) Administrative costs of monitoring*  
 15           *and complaint investigation, but only to the ex-*  
 16           *tent that those costs exceed the costs incurred for*  
 17           *those activities during fiscal year 1985.*

18           *“(C) To establish and implement the medi-*  
 19           *ation process required by section 615(e), includ-*  
 20           *ing providing for the costs of mediators and sup-*  
 21           *port personnel.*

22           *“(D) To assist local educational agencies in*  
 23           *meeting personnel shortages.*

24           *“(E) To develop a State Improvement Plan*  
 25           *under subpart 1 of part D.*

1           “(F) *Activities at the State and local levels*  
2           *to meet the performance goals established by the*  
3           *State under section 612(a)(16) and to support*  
4           *implementation of the State Improvement Plan*  
5           *under subpart 1 of part D if the State receives*  
6           *funds under that subpart.*

7           “(G) *To supplement other amounts used to*  
8           *develop and implement a Statewide coordinated*  
9           *services system designed to improve results for*  
10           *children and families, including children with*  
11           *disabilities and their families, but not to exceed*  
12           *one percent of the amount received by the State*  
13           *under this section. This system shall be coordi-*  
14           *nated with and, to the extent appropriate, build*  
15           *on the system of coordinated services developed*  
16           *by the State under part C of this Act.*

17           “(H) *For subgrants to local educational*  
18           *agencies for the purposes described in paragraph*  
19           *(4)(A).*

20           “(4)(A) *SUBGRANTS TO LOCAL EDUCATIONAL*  
21           *AGENCIES FOR CAPACITY-BUILDING AND IMPROVE-*  
22           *MENT.—In any fiscal year in which the percentage*  
23           *increase in the State’s allocation under this section*  
24           *exceeds the rate of inflation (as measured by the per-*  
25           *centage increase, if any, from the preceding fiscal*

1        *year in the Consumer Price Index For All Urban*  
2        *Consumers, published by the Bureau of Labor Statis-*  
3        *tics of the Department of Labor), each State shall re-*  
4        *serve, from its allocation under this section, the*  
5        *amount described in subparagraph (B) to make sub-*  
6        *grants to local educational agencies, unless that*  
7        *amount is less than \$100,000, to assist them in pro-*  
8        *viding direct services and in making systemic change*  
9        *to improve results for children with disabilities*  
10       *through one or more of the following:*

11                *“(i) Direct services, including alternative*  
12                *programming for children who have been ex-*  
13                *pelled from school, and services for children in*  
14                *correctional facilities, children enrolled in State-*  
15                *operated or State-supported schools, and children*  
16                *in charter schools.*

17                *“(ii) Addressing needs or carrying out im-*  
18                *provement strategies identified in the State’s Im-*  
19                *provement Plan under subpart 1 of part D.*

20                *“(iii) Adopting promising practices, mate-*  
21                *rials, and technology, based on knowledge derived*  
22                *from education research and other sources.*

23                *“(iv) Establishing, expanding, or imple-*  
24                *menting interagency agreements and arrange-*  
25                *ments between local educational agencies and*

1        *other agencies or organizations concerning the*  
 2        *provision of services to children with disabilities*  
 3        *and their families.*

4                *“(v) Increasing cooperative problem-solving*  
 5        *between parents and school personnel and pro-*  
 6        *moting the use of alternative dispute resolution.*

7                *“(B) MAXIMUM SUBGRANT.—For each fiscal*  
 8        *year, the amount referred to in subparagraph (A)*  
 9        *is—*

10                *“(i) the maximum amount the State was al-*  
 11        *lowed to retain under paragraph (1)(A) for the*  
 12        *prior fiscal year, or for fiscal year 1998, 25 per-*  
 13        *cent of the State’s allocation for fiscal year 1997*  
 14        *under this section; multiplied by*

15                *“(ii) the difference between the percentage*  
 16        *increase in the State’s allocation under this sec-*  
 17        *tion and the rate of inflation, as measured by*  
 18        *the percentage increase, if any, from the preced-*  
 19        *ing fiscal year in the Consumer Price Index For*  
 20        *All Urban Consumers, published by the Bureau*  
 21        *of Labor Statistics of the Department of Labor.*

22                *“(5) REPORT ON USE OF FUNDS.—As part of*  
 23        *the information required to be submitted to the Sec-*  
 24        *retary under section 612, each State shall annually*  
 25        *describe—*



1           “(A) how amounts retained under para-  
 2           graph (1) will be used to meet the requirements  
 3           of this part;

4           “(B) how those amounts will be allocated  
 5           among the activities described in paragraphs (2)  
 6           and (3) to meet State priorities based on input  
 7           from local educational agencies; and

8           “(C) the percentage of those amounts, if  
 9           any, that will be distributed to local educational  
 10          agencies by formula.

11          “(g) SUBGRANTS TO LOCAL EDUCATIONAL AGEN-  
 12          CIES.—

13               “(1) SUBGRANTS REQUIRED.—Each State that  
 14               receives a grant under this section for any fiscal year  
 15               shall distribute any funds it does not retain under  
 16               subsection (f) (at least 75 percent of the grant funds)  
 17               to local educational agencies in the State that have es-  
 18               tablished their eligibility under section 613, and to  
 19               State agencies that received funds under section  
 20               614A(a) of this Act for fiscal year 1997, as then in  
 21               effect, and have established their eligibility under sec-  
 22               tion 613, for use in accordance with this part.

23               “(2) ALLOCATIONS TO LOCAL EDUCATIONAL  
 24               AGENCIES.—

1           “(A) *INTERIM PROCEDURE.*—*For each fiscal*  
 2           *year for which funds are allocated to States*  
 3           *under subsection (d)(2), each State shall allocate*  
 4           *funds under paragraph (1) in accordance with*  
 5           *section 611(d) of this Act, as in effect prior to*  
 6           *the enactment of the Individuals with Disabil-*  
 7           *ities Education Act Amendments of 1997.*

8           “(B) *PERMANENT PROCEDURE.*—*For each*  
 9           *fiscal year for which funds are allocated to*  
 10           *States under subsection (e), each State shall allo-*  
 11           *cate funds under paragraph (1) as follows:*

12                   “(i) *BASE PAYMENTS.*—*The State shall*  
 13                   *first award each agency described in para-*  
 14                   *graph (1) the amount that agency would*  
 15                   *have received under this section for the base*  
 16                   *year, as defined in subsection (e)(2)(A), if*  
 17                   *the State had distributed 75 percent of its*  
 18                   *grant for that year under section 611(d), as*  
 19                   *then in effect.*

20                   “(ii) *ALLOCATION OF REMAINING*  
 21                   *FUNDS.*—*After making allocations under*  
 22                   *clause (i), the State shall—*

23                           “(I) *allocate 85 percent of any re-*  
 24                           *maining funds to those agencies on the*  
 25                           *basis of the relative numbers of chil-*

1            *dren enrolled in public and private ele-*  
 2            *mentary and secondary schools within*  
 3            *the agency’s jurisdiction; and*

4            *“(II) allocate 15 percent of those*  
 5            *remaining funds to those agencies in*  
 6            *accordance with their relative numbers*  
 7            *of children living in poverty, as deter-*  
 8            *mined by the State educational agency.*

9            *“(3) FORMER CHAPTER 1 STATE AGENCIES.—*

10           *“(A) To the extent necessary, the State—*

11           *“(i) shall use funds that are available*  
 12           *under subsection (f)(1)(A) to ensure that*  
 13           *each State agency that received fiscal year*  
 14           *1994 funds under subpart 2 of part D of*  
 15           *chapter 1 of title I of the Elementary and*  
 16           *Secondary Education Act of 1965 receives,*  
 17           *from the combination of funds under sub-*  
 18           *section (f)(1)(A) and funds provided under*  
 19           *paragraph (1) of this subsection, an amount*  
 20           *equal to—*

21           *“(I) the number of children with*  
 22           *disabilities, aged 6 through 21, to*  
 23           *whom the agency was providing spe-*  
 24           *cial education and related services on*  
 25           *December 1 of the fiscal year for which*

1           *the funds were appropriated, subject to*  
2           *the limitation in subparagraph (B);*  
3           *multiplied by*

4                     *“(II) the per-child amount pro-*  
5                     *vided under such subpart for fiscal*  
6                     *year 1994; and*

7                     *“(ii) may use those funds to ensure*  
8                     *that each local educational agency that re-*  
9                     *ceived fiscal year 1994 funds under that*  
10                    *subpart for children who had transferred*  
11                    *from a State-operated or State-supported*  
12                    *school or program assisted under that sub-*  
13                    *part receives, from the combination of funds*  
14                    *available under subsection (f)(1)(A) and*  
15                    *funds provided under paragraph (1) of this*  
16                    *subsection, an amount for each such child,*  
17                    *aged 3 through 21 to whom the agency was*  
18                    *providing special education and related*  
19                    *services on December 1 of the fiscal year for*  
20                    *which the funds were appropriated, equal to*  
21                    *the per-child amount the agency received*  
22                    *under that subpart for fiscal year 1994.*

23                    *“(B) The number of children counted under*  
24                    *subparagraph (A)(i)(I) shall not exceed the num-*  
25                    *ber of children aged 3 through 21 for whom the*

1           *agency received fiscal year 1994 funds under*  
2           *subpart 2 of part D of chapter 1 of title I of the*  
3           *Elementary and Secondary Education Act of*  
4           *1965.*

5           “(4) *REALLOCATION OF FUNDS.*—*If a State edu-*  
6           *cational agency determines that a local educational*  
7           *agency is adequately providing a free appropriate*  
8           *public education to all children with disabilities re-*  
9           *siding in the area served by that agency with State*  
10          *and local funds, the State educational agency may re-*  
11          *allocate any portion of the funds under this part that*  
12          *are not needed by that local agency to provide a free*  
13          *appropriate public education to other local edu-*  
14          *cational agencies in the State that are not adequately*  
15          *providing special education and related services to all*  
16          *children with disabilities residing in the areas they*  
17          *serve.*

18          “(h) *DEFINITIONS.*—*For the purpose of this section—*

19               “(1) *the term ‘average per-pupil expenditure in*  
20               *public elementary and secondary schools in the Unit-*  
21               *ed States’ means—*

22                       “(A) *without regard to the source of*  
23                       *funds—*

24                               “(i) *the aggregate current expenditures,*  
25                               *during the second fiscal year preceding the*

1           *fiscal year for which the determination is*  
 2           *made (or, if satisfactory data for that year*  
 3           *are not available, during the most recent*  
 4           *preceding fiscal year for which satisfactory*  
 5           *data are available) of all local educational*  
 6           *agencies in the 50 States and the District of*  
 7           *Columbia); plus*

8           *“(ii) any direct expenditures by the*  
 9           *State for the operation of those agencies; di-*  
 10          *vided by*

11          *“(B) the aggregate number of children in*  
 12          *average daily attendance to whom those agencies*  
 13          *provided free public education during that pre-*  
 14          *ceding year; and*

15          *“(2) the term ‘State’ means each of the 50 States,*  
 16          *the District of Columbia, and the Commonwealth of*  
 17          *Puerto Rico.*

18          *“(i) USE OF AMOUNTS BY SECRETARY OF THE INTE-*  
 19          *RIOR.—*

20          *“(1) PROVISION OF AMOUNTS FOR ASSIST-*  
 21          *ANCE.—*

22          *“(A) IN GENERAL.—The Secretary of Edu-*  
 23          *cation shall provide amounts to the Secretary of*  
 24          *the Interior to meet the need for assistance for*  
 25          *the education of children with disabilities on res-*

1        *ervations aged 5 to 21, inclusive, enrolled in ele-*  
2        *mentary and secondary schools for Indian chil-*  
3        *dren operated or funded by the Secretary of the*  
4        *Interior. The amount of such payment for any*  
5        *fiscal year shall be equal to 80 percent of the*  
6        *amount allotted under subsection (c) for that fis-*  
7        *cal year.*

8                *“(B) CALCULATION OF NUMBER OF CHIL-*  
9        *DREN.—In the case of Indian students ages 3 to*  
10        *5, inclusive, who are enrolled in programs affili-*  
11        *ated with Bureau of Indian Affairs (hereafter in*  
12        *this subsection referred to as ‘BIA’) schools and*  
13        *that are required by the States in which such*  
14        *schools are located to attain or maintain State*  
15        *accreditation, and which schools have such ac-*  
16        *creditation prior to the date of enactment of the*  
17        *Individuals with Disabilities Education Act*  
18        *Amendments of 1991, the school shall be allowed*  
19        *to count those children for the purpose of dis-*  
20        *tribution of the funds provided under this para-*  
21        *graph to the Secretary of the Interior. The Sec-*  
22        *retary of the Interior shall be responsible for*  
23        *meeting all of the requirements of this part for*  
24        *these children, in accordance with paragraph*  
25        *(2).*

1           “(C) *ADDITIONAL REQUIREMENT.*—*With re-*  
2           *spect to all other children aged 3 to 21, inclusive,*  
3           *on reservations, the State educational agency*  
4           *shall be responsible for ensuring that all of the*  
5           *requirements of this part are implemented.*

6           “(2) *SUBMISSION OF INFORMATION.*—*The Sec-*  
7           *retary of Education may provide the Secretary of the*  
8           *Interior amounts under paragraph (1) for a fiscal*  
9           *year only if the Secretary of the Interior submits to*  
10          *the Secretary of Education information that—*

11           “(A) *demonstrates that the Department of*  
12           *the Interior meets the appropriate requirements,*  
13           *as determined by the Secretary of Education, of*  
14           *sections 612 (including monitoring and evalua-*  
15           *tion activities) and 613;*

16           “(B) *includes a description of how the Sec-*  
17           *retary of the Interior will coordinate the provi-*  
18           *sion of services under this part with local edu-*  
19           *cational agencies, tribes and tribal organiza-*  
20           *tions, and other private and Federal service pro-*  
21           *viders;*

22           “(C) *includes an assurance that there are*  
23           *public hearings, adequate notice of such hear-*  
24           *ings, and an opportunity for comment afforded*  
25           *to members of tribes, tribal governing bodies, and*



1       *affected local school boards before the adoption of*  
2       *the policies, programs, and procedures described*  
3       *in subparagraph (A);*

4               “(D) includes an assurance that the Sec-  
5       *retary of the Interior will provide such informa-*  
6       *tion as the Secretary of Education may require*  
7       *to comply with section 618;*

8               “(E) includes an assurance that the Sec-  
9       *retary of the Interior and the Secretary of*  
10       *Health and Human Services have entered into a*  
11       *memorandum of agreement, to be provided to the*  
12       *Secretary of Education, for the coordination of*  
13       *services, resources, and personnel between their*  
14       *respective Federal, State, and local offices and*  
15       *with State and local educational agencies and*  
16       *other entities to facilitate the provision of serv-*  
17       *ices to Indian children with disabilities residing*  
18       *on or near reservations (such agreement shall*  
19       *provide for the apportionment of responsibilities*  
20       *and costs including, but not limited to, child*  
21       *find, evaluation, diagnosis, remediation or thera-*  
22       *peutic measures, and (where appropriate) equip-*  
23       *ment and medical or personal supplies as needed*  
24       *for a child to remain in school or a program);*  
25       *and*

1           “(F) includes an assurance that the Depart-  
2           ment of the Interior will cooperate with the De-  
3           partment of Education in its exercise of monitor-  
4           ing and oversight of this application, and any  
5           agreements entered into between the Secretary of  
6           the Interior and other entities under this part,  
7           and will fulfill its duties under this part.

8           Section 616(a) shall apply to the information de-  
9           scribed in this paragraph.

10           “(3) PAYMENTS FOR EDUCATION AND SERVICES  
11           FOR INDIAN CHILDREN WITH DISABILITIES AGED 3  
12           THROUGH 5.—

13           “(A) IN GENERAL.—With funds appro-  
14           priated under subsection (j), the Secretary of  
15           Education shall make payments to the Secretary  
16           of the Interior to be distributed to tribes or tribal  
17           organizations (as defined under section 4 of the  
18           Indian Self-Determination and Education As-  
19           sistance Act) or consortia of the above to provide  
20           for the coordination of assistance for special edu-  
21           cation and related services for children with dis-  
22           abilities aged 3 through 5 on reservations served  
23           by elementary and secondary schools for Indian  
24           children operated or funded by the Department  
25           of the Interior. The amount of such payments

1        *under subparagraph (B) for any fiscal year shall*  
2        *be equal to 20 percent of the amount allotted*  
3        *under subsection (c).*

4                *“(B) DISTRIBUTION OF FUNDS.—The Sec-*  
5        *retary of the Interior shall distribute the total*  
6        *amount of the payment under subparagraph (A)*  
7        *by allocating to each tribe or tribal organization*  
8        *an amount based on the number of children with*  
9        *disabilities ages 3 through 5 residing on reserva-*  
10       *tions as reported annually, divided by the total*  
11       *of those children served by all tribes or tribal or-*  
12       *ganizations.*

13               *“(C) SUBMISSION OF INFORMATION.—To re-*  
14       *ceive a payment under this paragraph, the tribe*  
15       *or tribal organization shall submit such figures*  
16       *to the Secretary of the Interior as required to de-*  
17       *termine the amounts to be allocated under sub-*  
18       *paragraph (B). This information shall be com-*  
19       *plied and submitted to the Secretary of Edu-*  
20       *cation.*

21               *“(D) USE OF FUNDS.—The funds received*  
22       *by a tribe or tribal organization shall be used to*  
23       *assist in child find, screening, and other proce-*  
24       *dures for the early identification of children aged*  
25       *3 through 5, parent training, and the provision*

1       *of direct services. These activities may be carried*  
2       *out directly or through contracts or cooperative*  
3       *agreements with the BIA, local educational agen-*  
4       *cies, and other public or private nonprofit orga-*  
5       *nizations. The tribe or tribal organization is en-*  
6       *couraged to involve Indian parents in the devel-*  
7       *opment and implementation of these activities.*  
8       *The above entities shall, as appropriate, make re-*  
9       *ferrals to local, State, or Federal entities for the*  
10      *provision of services or further diagnosis.*

11           “(E) *BIENNIAL REPORT.*—*To be eligible to*  
12      *receive a grant pursuant to subparagraph (A),*  
13      *the tribe or tribal organization shall provide to*  
14      *the Secretary of the Interior a biennial report of*  
15      *activities undertaken under this paragraph, in-*  
16      *cluding the number of contracts and cooperative*  
17      *agreements entered into, the number of children*  
18      *contacted and receiving services for each year,*  
19      *and the estimated number of children needing*  
20      *services during the 2 years following the one in*  
21      *which the report is made. The Secretary of the*  
22      *Interior shall include a summary of this infor-*  
23      *mation on a biennial basis in the report to the*  
24      *Secretary of Education required under this sub-*  
25      *section. The Secretary of Education may require*

1           *any additional information from the Secretary*  
2           *of the Interior.*

3           “(F) *PROHIBITIONS.*—None of the funds al-  
4           located under this paragraph may be used by the  
5           Secretary of the Interior for administrative pur-  
6           poses, including child count and the provision of  
7           technical assistance.

8           “(4) *PLAN FOR COORDINATION OF SERVICES.*—  
9           The Secretary of the Interior shall develop and imple-  
10          ment a plan for the coordination of services for all  
11          Indian children with disabilities residing on reserva-  
12          tions covered under this Act. Such plan shall provide  
13          for the coordination of services benefiting these chil-  
14          dren from whatever source, including tribes, the In-  
15          dian Health Service, other BIA divisions, and other  
16          Federal agencies. In developing the plan, the Sec-  
17          retary of the Interior shall consult with all interested  
18          and involved parties. It shall be based on the needs  
19          of the children and the system best suited for meeting  
20          those needs, and may involve the establishment of co-  
21          operative agreements between the BIA, other Federal  
22          agencies, and other entities. The plan shall also be  
23          distributed upon request to States, State and local  
24          educational agencies, and other agencies providing

1        *services to infants, toddlers, and children with dis-*  
2        *abilities, to tribes, and to other interested parties.*

3            “(5) *ESTABLISHMENT OF ADVISORY BOARD.—To*  
4        *meet the requirements of section 612(a)(21), the Sec-*  
5        *retary of the Interior shall establish, not later than 6*  
6        *months after the date of the enactment of the Individ-*  
7        *uals with Disabilities Education Act Amendments of*  
8        *1997, under the BIA, an advisory board composed of*  
9        *individuals involved in or concerned with the edu-*  
10       *cation and provision of services to Indian infants,*  
11       *toddlers, children, and youth with disabilities, includ-*  
12       *ing Indians with disabilities, Indian parents or*  
13       *guardians of such children, teachers, service providers,*  
14       *State and local educational officials, representatives*  
15       *of tribes or tribal organizations, representatives from*  
16       *State Interagency Coordinating Councils under sec-*  
17       *tion 641 in States having reservations, and other*  
18       *members representing the various divisions and enti-*  
19       *ties of the BIA. The chairperson shall be selected by*  
20       *the Secretary of the Interior. The advisory board*  
21       *shall—*

22            “(A) *assist in the coordination of services*  
23        *within the BIA and with other local, State, and*  
24        *Federal agencies in the provision of education*

1       *for infants, toddlers, and children with disabil-*  
2       *ities;*

3               “(B) *advise and assist the Secretary of the*  
4       *Interior in the performance of the Secretary’s re-*  
5       *sponsibilities described in this subsection;*

6               “(C) *develop and recommend policies con-*  
7       *cerning effective inter- and intra-agency collabo-*  
8       *ration, including modifications to regulations,*  
9       *and the elimination of barriers to inter- and*  
10       *intra-agency programs and activities;*

11              “(D) *provide assistance and disseminate in-*  
12       *formation on best practices, effective program co-*  
13       *ordination strategies, and recommendations for*  
14       *improved educational programming for Indian*  
15       *infants, toddlers, and children with disabilities;*  
16       *and*

17              “(E) *provide assistance in the preparation*  
18       *of information required under paragraph (2)(D).*

19       “(6) *ANNUAL REPORTS.—*

20              “(A) *IN GENERAL.—The advisory board es-*  
21       *tablished under paragraph (5) shall prepare and*  
22       *submit to the Secretary of the Interior and to the*  
23       *Congress an annual report containing a descrip-*  
24       *tion of the activities of the advisory board for the*  
25       *preceding year.*

1                   “(B) *AVAILABILITY.*—*The Secretary of the*  
 2                   *Interior shall make available to the Secretary of*  
 3                   *Education the report described in subparagraph*  
 4                   *(A).*

5                   “(j) *AUTHORIZATION OF APPROPRIATIONS.*—*For the*  
 6                   *purpose of carrying out this part, other than section 619,*  
 7                   *there are authorized to be appropriated such sums as may*  
 8                   *be necessary.*

9                   **“SEC. 612. STATE ELIGIBILITY.**

10                  “(a) *IN GENERAL.*—*A State is eligible for assistance*  
 11                  *under this part for a fiscal year if the State demonstrates*  
 12                  *to the satisfaction of the Secretary that the State has in*  
 13                  *effect policies and procedures to ensure that it meets each*  
 14                  *of the following conditions:*

15                         “(1) *FREE APPROPRIATE PUBLIC EDUCATION.*—

16                                 “(A) *IN GENERAL.*—*A free appropriate pub-*  
 17                                 *lic education is available to all children with*  
 18                                 *disabilities residing in the State between the ages*  
 19                                 *of 3 and 21, inclusive, including children with*  
 20                                 *disabilities who have been suspended or expelled*  
 21                                 *from school.*

22                                 “(B) *LIMITATION.*—*The obligation to make*  
 23                                 *a free appropriate public education available to*  
 24                                 *all children with disabilities does not apply with*  
 25                                 *respect to children:*



1           “(i) aged 3 through 5 and 18 through  
2           21 in a State to the extent that its applica-  
3           tion to those children would be inconsistent  
4           with State law or practice, or the order of  
5           any court, respecting the provision of public  
6           education to children in those age ranges;  
7           and

8           “(ii) aged 18 through 21 to the extent  
9           that State law does not require that special  
10          education and related services under this  
11          part be provided to children with disabil-  
12          ities who, in the educational placement  
13          prior to their incarceration in an adult cor-  
14          rectional facility:

15               “(I) were not actually identified  
16               as being a child with a disability  
17               under section 602(3) of this Act; or

18               “(II) did not have an Individual-  
19               ized Education Program under this  
20               part.

21           “(2) *FULL EDUCATIONAL OPPORTUNITY GOAL.*—  
22           *The State has established a goal of providing full edu-*  
23           *cational opportunity to all children with disabilities*  
24           *and a detailed timetable for accomplishing that goal.*

25           “(3) *CHILD FIND.*—

1           “(A) *IN GENERAL.*—*All children with dis-*  
2           *abilities residing in the State, including children*  
3           *with disabilities attending private schools, re-*  
4           *gardless of the severity of their disabilities, and*  
5           *who are in need of special education and related*  
6           *services, are identified, located, and evaluated*  
7           *and a practical method is developed and imple-*  
8           *mented to determine which children with disabil-*  
9           *ities are currently receiving needed special edu-*  
10          *cation and related services.*

11          “(B) *CONSTRUCTION.*—*Nothing in this Act*  
12          *requires that children be classified by their dis-*  
13          *ability so long as each child who has a disability*  
14          *listed in section 602 and who, by reason of that*  
15          *disability, needs special education and related*  
16          *services is regarded as a child with a disability*  
17          *under this part.*

18          “(4) *INDIVIDUALIZED EDUCATION PROGRAM.*—  
19          *An individualized education program, or an individ-*  
20          *ualized family service plan that meets the require-*  
21          *ments of section 636(d), is developed, reviewed, and*  
22          *revised for each child with a disability in accordance*  
23          *with section 614(d).*

24          “(5) *LEAST RESTRICTIVE ENVIRONMENT.*—

1           “(A) *IN GENERAL.*—*To the maximum ex-*  
2           *tent appropriate, children with disabilities, in-*  
3           *cluding children in public or private institutions*  
4           *or other care facilities, are educated with chil-*  
5           *dren who are not disabled, and special classes,*  
6           *separate schooling, or other removal of children*  
7           *with disabilities from the regular educational en-*  
8           *vironment occurs only when the nature or sever-*  
9           *ity of the disability of a child is such that edu-*  
10           *cation in regular classes with the use of supple-*  
11           *mentary aids and services cannot be achieved*  
12           *satisfactorily.*

13           “(B) *ADDITIONAL REQUIREMENT.*—

14           “(i) *IN GENERAL.*—*If the State uses a*  
15           *funding mechanism by which the State dis-*  
16           *tributes State funds on the basis of the type*  
17           *of setting in which a child is served, the*  
18           *funding mechanism does not result in place-*  
19           *ments that violate the requirements of sub-*  
20           *paragraph (A).*

21           “(ii) *ASSURANCE.*—*If the State does*  
22           *not have policies and procedures to ensure*  
23           *compliance with clause (i), the State shall*  
24           *provide the Secretary an assurance that it*  
25           *will revise the funding mechanism as soon*

1           *as feasible to ensure that such mechanism*  
2           *does not result in such placements.*

3           “(6) *PROCEDURAL SAFEGUARDS.*—

4                 “(A) *IN GENERAL.*—*Children with disabil-*  
5           *ities and their parents are afforded the proce-*  
6           *dural safeguards required by section 615.*

7                 “(B) *ADDITIONAL PROCEDURAL SAFE-*  
8           *GUARDS.*—*Procedures to ensure that testing and*  
9           *evaluation materials and procedures utilized for*  
10          *the purposes of evaluation and placement of chil-*  
11          *dren with disabilities will be selected and admin-*  
12          *istered so as not to be racially or culturally dis-*  
13          *criminatory. Such materials or procedures shall*  
14          *be provided and administered in the child’s na-*  
15          *tive language or mode of communication, unless*  
16          *it clearly is not feasible to do so, and no single*  
17          *procedure shall be the sole criterion for determin-*  
18          *ing an appropriate educational program for a*  
19          *child.*

20                 “(7) *EVALUATION.*—*Children with disabilities*  
21          *are evaluated in accordance with subsections (a)*  
22          *through (c) of section 614.*

23                 “(8) *CONFIDENTIALITY.*—*Agencies in the State*  
24          *comply with section 617(c) (relating to the confiden-*  
25          *tiality of records and information).*

1           “(9) *TRANSITION FROM PART C TO PRESCHOOL*  
 2           *PROGRAMS.—Children participating in early-inter-*  
 3           *vention programs assisted under part C, and who will*  
 4           *participate in preschool programs assisted under this*  
 5           *part, experience a smooth and effective transition to*  
 6           *those preschool programs in a manner consistent with*  
 7           *section 637(a)(8). By the third birthday of such a*  
 8           *child, an individualized education program or, if con-*  
 9           *sistent with sections 614(d)(2)(B) and 636(d), an in-*  
 10           *dividualized family service plan, has been developed*  
 11           *and is being implemented for the child. The local edu-*  
 12           *cational agency will participate in transition plan-*  
 13           *ning conferences arranged by the designated lead*  
 14           *agency under section 637(a)(8).*

15           “(10) *CHILDREN IN PRIVATE SCHOOLS.—*

16           “(A) *CHILDREN ENROLLED IN PRIVATE*  
 17           *SCHOOLS BY THEIR PARENTS.—*

18           “(i) *IN GENERAL.—To the extent con-*  
 19           *sistent with the number and location of*  
 20           *children with disabilities in the State who*  
 21           *are enrolled by their parents in private ele-*  
 22           *mentary and secondary schools, provision is*  
 23           *made for the participation of those children*  
 24           *in the program assisted or carried out*  
 25           *under this part by providing for such chil-*

1        *dren special education and related services*  
2        *in accordance with the following require-*  
3        *ments, unless the Secretary has arranged for*  
4        *services to those children under subsection*  
5        *(f):*

6                *“(I) Amounts expended for the*  
7                *provision of those services by a local*  
8                *educational agency shall be equal to a*  
9                *proportionate amount of Federal funds*  
10               *made available under this part.*

11               *“(II) Such services may be pro-*  
12               *vided to children with disabilities on*  
13               *the premises of private, including pa-*  
14               *rochial, schools, to the extent consistent*  
15               *with law.*

16               *“(ii) CHILD-FIND REQUIREMENT.—The*  
17               *requirements of paragraph (3) of this sub-*  
18               *section (relating to child find) shall apply*  
19               *with respect to children with disabilities in*  
20               *the State who are enrolled in private, in-*  
21               *cluding parochial, elementary and second-*  
22               *ary schools.*

23               *“(B) CHILDREN PLACED IN, OR REFERRED*  
24               *TO, PRIVATE SCHOOLS BY PUBLIC AGENCIES.—*

1           “(i) *IN GENERAL.*—*Children with dis-*  
2           *abilities in private schools and facilities are*  
3           *provided special education and related serv-*  
4           *ices, in accordance with an individualized*  
5           *education program, at no cost to their par-*  
6           *ents, if such children are placed in, or re-*  
7           *ferred to, such schools or facilities by the*  
8           *State or appropriate local educational agen-*  
9           *cy as the means of carrying out the require-*  
10          *ments of this part or any other applicable*  
11          *law requiring the provision of special edu-*  
12          *cation and related services to all children*  
13          *with disabilities within such State.*

14          “(ii) *STANDARDS.*—*In all cases de-*  
15          *scribed in clause (i), the State educational*  
16          *agency shall determine whether such schools*  
17          *and facilities meet standards that apply to*  
18          *State and local educational agencies and*  
19          *that children so served have all the rights*  
20          *they would have if served by such agencies.*

21          “(C) *PAYMENT FOR EDUCATION OF CHIL-*  
22          *DREN ENROLLED IN PRIVATE SCHOOLS WITHOUT*  
23          *CONSENT OF OR REFERRAL BY THE PUBLIC*  
24          *AGENCY.*—

1           “(i) *IN GENERAL.*—Subject to subpara-  
2           graph (A), this part does not require a local  
3           educational agency to pay for the cost of  
4           education, including special education and  
5           related services, of a child with a disability  
6           at a private school or facility if that agency  
7           made a free appropriate public education  
8           available to the child and the parents elect-  
9           ed to place the child in such private school  
10          or facility.

11          “(ii) *REIMBURSEMENT FOR PRIVATE*  
12          *SCHOOL PLACEMENT.*—If the parents of a  
13          child with a disability, who previously re-  
14          ceived special education and related services  
15          under the authority of a public agency, en-  
16          roll the child in a private elementary or sec-  
17          ondary school without the consent of or re-  
18          ferral by the public agency, a court or a  
19          hearing officer may require the agency to  
20          reimburse the parents for the cost of that en-  
21          rollment if the court or hearing officer finds  
22          that the agency had not made a free appro-  
23          priate public education available to the  
24          child in a timely manner prior to that en-  
25          rollment.



1                   “(iii) *LIMITATION ON REIMBURSE-*  
2                   *MENT.—The cost of reimbursement described*  
3                   *in clause (ii) may be reduced or denied—*

4                   “(I) *if—*

5                   “(aa) *at the most recent IEP*  
6                   *meeting that the parents attended*  
7                   *prior to removal of the child from*  
8                   *the public school, the parents did*  
9                   *not inform the IEP team that*  
10                  *they were rejecting the placement*  
11                  *proposed by the public agency to*  
12                  *provide a free appropriate public*  
13                  *education to their child, including*  
14                  *stating their concerns and their*  
15                  *intent to enroll their child in a*  
16                  *private school at public expense;*  
17                  *or*

18                  “(bb) *10 business days (in-*  
19                  *cluding any holidays that occur*  
20                  *on a business day) prior to the re-*  
21                  *moval of the child from the public*  
22                  *school, the parents did not give*  
23                  *written notice to the public agen-*  
24                  *cy of the information described in*  
25                  *division (aa);*

1                   “(II) if, prior to the parents’ re-  
2                   moval of the child from the public  
3                   school, the public agency informed the  
4                   parents, through the notice require-  
5                   ments described in section 615(b)(7), of  
6                   its intent to evaluate the child (includ-  
7                   ing a statement of the purpose of the  
8                   evaluation that was appropriate and  
9                   reasonable), but the parents did not  
10                  make the child available for such eval-  
11                  uation; or

12                  “(III) upon a judicial finding of  
13                  unreasonableness with respect to ac-  
14                  tions taken by the parents.

15                  “(iv) *EXCEPTION.*—Notwithstanding  
16                  the notice requirement in clause (iii)(I), the  
17                  cost of reimbursement may not be reduced  
18                  or denied for failure to provide such notice  
19                  if—

20                         “(I) the parent is illiterate and  
21                         cannot write in English;

22                         “(II) compliance with clause  
23                         (iii)(I) would likely result in physical  
24                         or serious emotional harm to the child;

1                   “(III) the school prevented the  
2                   parent from providing such notice; or

3                   “(IV) the parents had not received  
4                   notice, pursuant to section 615, of the  
5                   notice requirement in clause (iii)(I).

6                   “(11) STATE EDUCATIONAL AGENCY RESPON-  
7                   SIBLE FOR GENERAL SUPERVISION.—

8                   “(A) IN GENERAL.—The State educational  
9                   agency is responsible for ensuring that—

10                   “(i) the requirements of this part are  
11                   met; and

12                   “(ii) all educational programs for chil-  
13                   dren with disabilities in the State, includ-  
14                   ing all such programs administered by any  
15                   other State or local agency—

16                   “(I) are under the general super-  
17                   vision of individuals in the State who  
18                   are responsible for educational pro-  
19                   grams for children with disabilities;  
20                   and

21                   “(II) meet the educational stand-  
22                   ards of the State educational agency.

23                   “(B) LIMITATION.—Subparagraph (A) shall  
24                   not limit the responsibility of agencies in the  
25                   State other than the State educational agency to

1        *provide, or pay for some or all of the costs of, a*  
 2        *free appropriate public education for any child*  
 3        *with a disability in the State.*

4                “(C) *EXCEPTION.—Notwithstanding sub-*  
 5        *paragraphs (A) and (B), the Governor (or an-*  
 6        *other individual pursuant to State law), consist-*  
 7        *ent with State law, may assign to any public*  
 8        *agency in the State the responsibility of ensuring*  
 9        *that the requirements of this part are met with*  
 10        *respect to children with disabilities who are con-*  
 11        *victed as adults under State law and incarcer-*  
 12        *ated in adult prisons.*

13                “(12) *OBLIGATIONS RELATED TO AND METHODS*  
 14        *OF ENSURING SERVICES.—*

15                “(A) *ESTABLISHING RESPONSIBILITY FOR*  
 16        *SERVICES.—The Chief Executive Officer or des-*  
 17        *ignee of the officer shall ensure that an inter-*  
 18        *agency agreement or other mechanism for inter-*  
 19        *agency coordination is in effect between each*  
 20        *public agency described in subparagraph (B)*  
 21        *and the State educational agency, in order to en-*  
 22        *sure that all services described in subparagraph*  
 23        *(B)(i) that are needed to ensure a free appro-*  
 24        *priate public education are provided, including*  
 25        *the provision of such services during the pend-*

1            *ency of any dispute under clause (iii). Such*  
 2            *agreement or mechanism shall include the follow-*  
 3            *ing:*

4            “(i) *AGENCY FINANCIAL RESPONSIBIL-*  
 5            *ITY.—An identification of, or a method for*  
 6            *defining, the financial responsibility of each*  
 7            *agency for providing services described in*  
 8            *subparagraph (B)(i) to ensure a free appro-*  
 9            *priate public education to children with*  
 10           *disabilities, provided that the financial re-*  
 11           *sponsibility of each public agency described*  
 12           *in subparagraph (B), including the State*  
 13           *Medicaid agency and other public insurers*  
 14           *of children with disabilities, shall precede*  
 15           *the financial responsibility of the local edu-*  
 16           *cational agency (or the State agency re-*  
 17           *sponsible for developing the child’s IEP).*

18           “(ii) *CONDITIONS AND TERMS OF RE-*  
 19           *IMBURSEMENT.—The conditions, terms, and*  
 20           *procedures under which a local educational*  
 21           *agency shall be reimbursed by other agen-*  
 22           *cies.*

23           “(iii) *INTERAGENCY DISPUTES.—Pro-*  
 24           *cedures for resolving interagency disputes*  
 25           *(including procedures under which local*

1            *educational agencies may initiate proceed-*  
2            *ings) under the agreement or other mecha-*  
3            *nism to secure reimbursement from other*  
4            *agencies or otherwise implement the provi-*  
5            *sions of the agreement or mechanism.*

6            “(iv) *COORDINATION OF SERVICES*  
7            *PROCEDURES.—Policies and procedures for*  
8            *agencies to determine and identify the*  
9            *interagency coordination responsibilities of*  
10           *each agency to promote the coordination*  
11           *and timely and appropriate delivery of*  
12           *services described in subparagraph (B)(i).*

13           “(B) *OBLIGATION OF PUBLIC AGENCY.—*

14           “(i) *IN GENERAL.—If any public agen-*  
15           *cy other than an educational agency is oth-*  
16           *erwise obligated under Federal or State law,*  
17           *or assigned responsibility under State pol-*  
18           *icy or pursuant to subparagraph (A), to*  
19           *provide or pay for any services that are also*  
20           *considered special education or related serv-*  
21           *ices (such as, but not limited to, services de-*  
22           *scribed in sections 602(1) relating to*  
23           *assistive technology devices, 602(2) relating*  
24           *to assistive technology services, 602(22) re-*  
25           *lating to related services, 602(29) relating*

1           to supplementary aids and services, and  
2           602(30) relating to transition services) that  
3           are necessary for ensuring a free appro-  
4           priate public education to children with  
5           disabilities within the State, such public  
6           agency shall fulfill that obligation or re-  
7           sponsibility, either directly or through con-  
8           tract or other arrangement.

9           “(ii) *REIMBURSEMENT FOR SERVICES*  
10          *BY PUBLIC AGENCY.*—If a public agency  
11          other than an educational agency fails to  
12          provide or pay for the special education and  
13          related services described in clause (i), the  
14          local educational agency (or State agency  
15          responsible for developing the child’s IEP)  
16          shall provide or pay for such services to the  
17          child. Such local educational agency or  
18          State agency may then claim reimburse-  
19          ment for the services from the public agency  
20          that failed to provide or pay for such serv-  
21          ices and such public agency shall reimburse  
22          the local educational agency or State agency  
23          pursuant to the terms of the interagency  
24          agreement or other mechanism described in  
25          subparagraph (A)(i) according to the proce-

1                   dures established in such agreement pursu-  
2                   ant to subparagraph (A)(ii).

3                   “(C) *SPECIAL RULE.*—*The requirements of*  
4                   *subparagraph (A) may be met through—*

5                   “(i) *STATE STATUTE OR REGULATION;*

6                   “(ii) *signed agreements between respec-*  
7                   *tive agency officials that clearly identify the*  
8                   *responsibilities of each agency relating to*  
9                   *the provision of services; or*

10                  “(iii) *other appropriate written meth-*  
11                  *ods as determined by the Chief Executive*  
12                  *Officer of the State or designee of the officer.*

13                  “(13) *PROCEDURAL REQUIREMENTS RELATING*  
14                  *TO LOCAL EDUCATIONAL AGENCY ELIGIBILITY.*—*The*  
15                  *State educational agency will not make a final deter-*  
16                  *mination that a local educational agency is not eligi-*  
17                  *ble for assistance under this part without first afford-*  
18                  *ing that agency reasonable notice and an opportunity*  
19                  *for a hearing.*

20                  “(14) *COMPREHENSIVE SYSTEM OF PERSONNEL*  
21                  *DEVELOPMENT.*—*The State has in effect, consistent*  
22                  *with the purposes of this Act and with section*  
23                  *635(a)(8), a comprehensive system of personnel devel-*  
24                  *opment that is designed to ensure an adequate supply*  
25                  *of qualified special education, regular education, and*



1 *related services personnel that meets the requirements*  
 2 *for a State improvement plan relating to personnel*  
 3 *development in subsections (b)(2)(B) and (c)(3)(D) of*  
 4 *section 653.*

5 *“(15) PERSONNEL STANDARDS.—*

6 *“(A) IN GENERAL.—The State educational*  
 7 *agency has established and maintains standards*  
 8 *to ensure that personnel necessary to carry out*  
 9 *this part are appropriately and adequately pre-*  
 10 *pared and trained.*

11 *“(B) STANDARDS DESCRIBED.—Such stand-*  
 12 *ards shall—*

13 *“(i) be consistent with any State-ap-*  
 14 *proved or State-recognized certification, li-*  
 15 *censing, registration, or other comparable*  
 16 *requirements that apply to the professional*  
 17 *discipline in which those personnel are pro-*  
 18 *viding special education or related services;*

19 *“(ii) to the extent the standards de-*  
 20 *scribed in subparagraph (A) are not based*  
 21 *on the highest requirements in the State ap-*  
 22 *plicable to a specific profession or dis-*  
 23 *cipline, the State is taking steps to require*  
 24 *retraining or hiring of personnel that meet*

1           *appropriate professional requirements in*  
2           *the State; and*

3           “(iii) *allow paraprofessionals and as-*  
4           *stants who are appropriately trained and*  
5           *supervised, in accordance with State law,*  
6           *regulations, or written policy, in meeting*  
7           *the requirements of this part to be used to*  
8           *assist in the provision of special education*  
9           *and related services to children with disabil-*  
10          *ities under this part.*

11          “(C) *POLICY.—In implementing this para-*  
12          *graph, a State may adopt a policy that includes*  
13          *a requirement that local educational agencies in*  
14          *the State make an ongoing good-faith effort to re-*  
15          *cruit and hire appropriately and adequately*  
16          *trained personnel to provide special education*  
17          *and related services to children with disabilities,*  
18          *including, in a geographic area of the State*  
19          *where there is a shortage of such personnel, the*  
20          *most qualified individuals available who are*  
21          *making satisfactory progress toward completing*  
22          *applicable course work necessary to meet the*  
23          *standards described in subparagraph (B)(i), con-*  
24          *sistent with State law, and the steps described in*  
25          *subparagraph (B)(ii) within three years.*

1           “(16) *PERFORMANCE GOALS AND INDICATORS.*—

2       *The State—*

3           “(A) *has established goals for the perform-*  
4       *ance of children with disabilities in the State*  
5       *that—*

6           “(i) *will promote the purposes of this*  
7       *Act, as stated in section 601(d); and*

8           “(ii) *are consistent, to the maximum*  
9       *extent appropriate, with other goals and*  
10       *standards for children established by the*  
11       *State;*

12          “(B) *has established performance indicators*  
13       *the State will use to assess progress toward*  
14       *achieving those goals that, at a minimum, ad-*  
15       *dress the performance of children with disabil-*  
16       *ities on assessments, drop-out rates, and gradua-*  
17       *tion rates;*

18          “(C) *will, every two years, report to the*  
19       *Secretary and the public on the progress of the*  
20       *State, and of children with disabilities in the*  
21       *State, toward meeting the goals established under*  
22       *subparagraph (A); and*

23          “(D) *based on its assessment of that*  
24       *progress, will revise its State improvement plan*  
25       *under subpart 1 of part D as may be needed to*

1           *improve its performance, if the State receives as-*  
 2           *sistance under that subpart.*

3           “(17) *PARTICIPATION IN ASSESSMENTS.*—

4                   “(A) *IN GENERAL.*—*Children with disabil-*  
 5                   *ities are included in general State and district-*  
 6                   *wide assessment programs, with appropriate ac-*  
 7                   *commodations, where necessary. As appropriate,*  
 8                   *the State or local educational agency—*

9                           “(i) *develops guidelines for the partici-*  
 10                           *pation of children with disabilities in alter-*  
 11                           *nate assessments for those children who can-*  
 12                           *not participate in State and district-wide*  
 13                           *assessment programs; and*

14                           “(ii) *develops and, beginning not later*  
 15                           *than July 1, 2000, conducts those alternate*  
 16                           *assessments.*

17                   “(B) *REPORTS.*—*The State educational*  
 18                   *agency makes available to the public, and reports*  
 19                   *to the public with the same frequency and in the*  
 20                   *same detail as it reports on the assessment of*  
 21                   *nondisabled children, the following:*

22                           “(i) *The number of children with dis-*  
 23                           *abilities participating in regular assess-*  
 24                           *ments.*

1                   “(ii) *The number of those children par-*  
 2                   *ticipating in alternate assessments.*

3                   “(iii)(I) *The performance of those chil-*  
 4                   *dren on regular assessments (beginning not*  
 5                   *later than July 1, 1998) and on alternate*  
 6                   *assessments (not later than July 1, 2000), if*  
 7                   *doing so would be statistically sound and*  
 8                   *would not result in the disclosure of per-*  
 9                   *formance results identifiable to individual*  
 10                   *children.*

11                   “(II) *Data relating to the performance*  
 12                   *of children described under subclause (I)*  
 13                   *shall be disaggregated—*

14                   “(aa) *for assessments conducted*  
 15                   *after July 1, 1998; and*

16                   “(bb) *for assessments conducted*  
 17                   *before July 1, 1998, if the State is re-*  
 18                   *quired to disaggregate such data prior*  
 19                   *to July 1, 1998.*

20                   “(18) *SUPPLEMENTATION OF STATE, LOCAL, AND*  
 21                   *OTHER FEDERAL FUNDS.—*

22                   “(A) *EXPENDITURES.—Funds paid to a*  
 23                   *State under this part will be expended in accord-*  
 24                   *ance with all the provisions of this part.*

1                   “(B) *PROHIBITION AGAINST COMMINGLING.—Funds paid to a State under this part*  
2                   *will not be commingled with State funds.*

3                   “(C) *PROHIBITION AGAINST SUPPLANTATION*  
4                   *AND CONDITIONS FOR WAIVER BY SECRETARY.—*  
5                   *Except as provided in section 613, funds paid to*  
6                   *a State under this part will be used to supple-*  
7                   *ment the level of Federal, State, and local funds*  
8                   *(including funds that are not under the direct*  
9                   *control of State or local educational agencies) ex-*  
10                   *pended for special education and related services*  
11                   *provided to children with disabilities under this*  
12                   *part and in no case to supplant such Federal,*  
13                   *State, and local funds, except that, where the*  
14                   *State provides clear and convincing evidence*  
15                   *that all children with disabilities have available*  
16                   *to them a free appropriate public education, the*  
17                   *Secretary may waive, in whole or in part, the*  
18                   *requirements of this subparagraph if the Sec-*  
19                   *retary concurs with the evidence provided by the*  
20                   *State.*

21                   “(19) *MAINTENANCE OF STATE FINANCIAL SUP-*  
22                   *PORT.—*

23                   “(A) *IN GENERAL.—The State does not re-*  
24                   *duce the amount of State financial support for*  
25

1       *special education and related services for chil-*  
 2       *dren with disabilities, or otherwise made avail-*  
 3       *able because of the excess costs of educating those*  
 4       *children, below the amount of that support for*  
 5       *the preceding fiscal year.*

6               “(B) *REDUCTION OF FUNDS FOR FAILURE*  
 7       *TO MAINTAIN SUPPORT.—The Secretary shall re-*  
 8       *duce the allocation of funds under section 611 for*  
 9       *any fiscal year following the fiscal year in which*  
 10       *the State fails to comply with the requirement of*  
 11       *subparagraph (A) by the same amount by which*  
 12       *the State fails to meet the requirement.*

13              “(C) *WAIVERS FOR EXCEPTIONAL OR UN-*  
 14       *CONTROLLABLE CIRCUMSTANCES.—The Secretary*  
 15       *may waive the requirement of subparagraph (A)*  
 16       *for a State, for one fiscal year at a time, if the*  
 17       *Secretary determines that—*

18                   “(i) *granting a waiver would be equi-*  
 19                   *table due to exceptional or uncontrollable*  
 20                   *circumstances such as a natural disaster or*  
 21                   *a precipitous and unforeseen decline in the*  
 22                   *financial resources of the State; or*

23                   “(ii) *the State meets the standard in*  
 24                   *paragraph (18)(C) of this section for a*  
 25                   *waiver of the requirement to supplement,*

1                   and not to supplant, funds received under  
2                   this part.

3                   “(D) *SUBSEQUENT YEARS.*—If, for any  
4                   year, a State fails to meet the requirement of  
5                   subparagraph (A), including any year for which  
6                   the State is granted a waiver under subpara-  
7                   graph (C), the financial support required of the  
8                   State in future years under subparagraph (A)  
9                   shall be the amount that would have been re-  
10                  quired in the absence of that failure and not the  
11                  reduced level of the State’s support.

12                  “(E) *REGULATIONS.*—

13                         (i) *The Secretary shall, by regulation,*  
14                         *establish procedures (including objective cri-*  
15                         *teria and consideration of the results of*  
16                         *compliance reviews of the State conducted*  
17                         *by the Secretary) for determining whether*  
18                         *to grant a waiver under subparagraph*  
19                         *(C)(ii).*

20                         “(ii) *The Secretary shall publish pro-*  
21                         *posed regulations under clause (i) not later*  
22                         *than 6 months after the date of the enact-*  
23                         *ment of the Individuals with Disabilities*  
24                         *Education Act Amendments of 1997, and*  
25                         *shall issue final regulations under clause (i)*



1                   *not later than 1 year after such date of en-*  
2                   *actment.*

3                   “(20) *PUBLIC PARTICIPATION.*—*Prior to the*  
4                   *adoption of any policies and procedures needed to*  
5                   *comply with this section (including any amendments*  
6                   *to such policies and procedures), the State ensures*  
7                   *that there are public hearings, adequate notice of the*  
8                   *hearings, and an opportunity for comment available*  
9                   *to the general public, including individuals with dis-*  
10                   *abilities and parents of children with disabilities.*

11                   “(21) *STATE ADVISORY PANEL.*—

12                   “(A) *IN GENERAL.*—*The State has estab-*  
13                   *lished and maintains an advisory panel for the*  
14                   *purpose of providing policy guidance with re-*  
15                   *spect to special education and related services for*  
16                   *children with disabilities in the State.*

17                   “(B) *MEMBERSHIP.*—*Such advisory panel*  
18                   *shall consist of members appointed by the Gov-*  
19                   *ernor, or any other official authorized under*  
20                   *State law to make such appointments, that is*  
21                   *representative of the State population and that*  
22                   *is composed of individuals involved in, or con-*  
23                   *cerned with, the education of children with dis-*  
24                   *abilities, including—*

1 “(i) parents of children with disabil-  
2 ities;

3 “(ii) individuals with disabilities;

4 “(iii) teachers;

5 “(iv) representatives of institutions of  
6 higher education that prepare special edu-  
7 cation and related services personnel;

8 “(v) State and local education officials;

9 “(vi) administrators of programs for  
10 children with disabilities;

11 “(vii) representatives of other State  
12 agencies involved in the financing or deliv-  
13 ery of related services to children with dis-  
14 abilities;

15 “(viii) representatives of private  
16 schools and public charter schools;

17 “(ix) at least one representative of a  
18 vocational, community, or business organi-  
19 zation concerned with the provision of tran-  
20 sition services to children with disabilities;  
21 and

22 “(x) representatives from the State ju-  
23 venile and adult corrections agencies.

24 “(C) *SPECIAL RULE.*—A majority of the  
25 members of the panel shall be individuals with

1       *disabilities or parents of children with disabili-*  
2       *ties.*

3               “(D) *DUTIES.*—*The advisory panel shall—*

4                       “(i) *advise the State educational agen-*  
5                       *cy of unmet needs within the State in the*  
6                       *education of children with disabilities;*

7                       “(ii) *comment publicly on any rules or*  
8                       *regulations proposed by the State regarding*  
9                       *the education of children with disabilities;*

10                      “(iii) *advise the State educational*  
11                      *agency in developing evaluations and re-*  
12                      *porting on data to the Secretary under sec-*  
13                      *tion 618;*

14                      “(iv) *advise the State educational*  
15                      *agency in developing corrective action plans*  
16                      *to address findings identified in Federal*  
17                      *monitoring reports under this part; and*

18                      “(v) *advise the State educational agen-*  
19                      *cy in developing and implementing policies*  
20                      *relating to the coordination of services for*  
21                      *children with disabilities.*

22               “(22) *SUSPENSION AND EXPULSION RATES.*—

23                      “(A) *IN GENERAL.*—*The State educational*  
24                      *agency examines data to determine if significant*  
25                      *discrepancies are occurring in the rate of long-*

1           *term suspensions and expulsions of children with*  
 2           *disabilities—*

3                   “(i) *among local educational agencies*  
 4                   *in the State; or*

5                   “(ii) *compared to such rates for non-*  
 6                   *disabled children within such agencies.*

7                   “(B) *REVIEW AND REVISION OF POLICIES.—*  
 8           *If such discrepancies are occurring, the State*  
 9           *educational agency reviews and, if appropriate,*  
 10          *revises (or requires the affected State or local*  
 11          *educational agency to revise) its policies, proce-*  
 12          *dures, and practices relating to the development*  
 13          *and implementation of IEPs, the use of behav-*  
 14          *ioral interventions, and procedural safeguards,*  
 15          *to ensure that such policies, procedures, and*  
 16          *practices comply with this Act.*

17           “(b) *STATE EDUCATIONAL AGENCY AS PROVIDER OF*  
 18          *FREE APPROPRIATE PUBLIC EDUCATION OR DIRECT SERV-*  
 19          *ICES.—If the State educational agency provides free appro-*  
 20          *priate public education to children with disabilities, or pro-*  
 21          *vides direct services to such children, such agency—*

22                   “(1) *shall comply with any additional require-*  
 23           *ments of section 613(a), as if such agency were a local*  
 24           *educational agency; and*

1           “(2) *may use amounts that are otherwise avail-*  
 2           *able to such agency under this part to serve those chil-*  
 3           *dren without regard to section 613(a)(2)(A)(i) (relat-*  
 4           *ing to excess costs).*

5           “(c) *EXCEPTION FOR PRIOR STATE PLANS.—*

6           “(1) *IN GENERAL.—If a State has on file with*  
 7           *the Secretary policies and procedures that dem-*  
 8           *onstrate that such State meets any requirement of*  
 9           *subsection (a), including any policies and procedures*  
 10           *filed under this part as in effect before the effective*  
 11           *date of the Individuals with Disabilities Education*  
 12           *Act Amendments of 1997, the Secretary shall consider*  
 13           *such State to have met such requirement for purposes*  
 14           *of receiving a grant under this part.*

15           “(2) *MODIFICATIONS MADE BY STATE.—Subject*  
 16           *to paragraph (3), an application submitted by a*  
 17           *State in accordance with this section shall remain in*  
 18           *effect until the State submits to the Secretary such*  
 19           *modifications as the State deems necessary. This sec-*  
 20           *tion shall apply to a modification to an application*  
 21           *to the same extent and in the same manner as this*  
 22           *section applies to the original plan.*

23           “(3) *MODIFICATIONS REQUIRED BY THE SEC-*  
 24           *RETARY.—If, after the effective date of the Individuals*  
 25           *with Disabilities Education Act Amendments of 1997,*

1     *the provisions of this Act are amended (or the regula-*  
 2     *tions developed to carry out this Act are amended),*  
 3     *or there is a new interpretation of this Act by a Fed-*  
 4     *eral or State Supreme court, or there is an official*  
 5     *finding of noncompliance with Federal law or regula-*  
 6     *tions, the Secretary may require a State to modify its*  
 7     *application only to the extent necessary to ensure the*  
 8     *State's compliance with this part.*

9     “(d) *APPROVAL BY THE SECRETARY.*—

10         “(1) *IN GENERAL.*—*If the Secretary determines*  
 11     *that a State is eligible to receive a grant under this*  
 12     *part, the Secretary shall notify the State of that deter-*  
 13     *mination.*

14         “(2) *NOTICE AND HEARING.*—*The Secretary shall*  
 15     *not make a final determination that a State is not*  
 16     *eligible to receive a grant under this part until after*  
 17     *providing the State—*

18                 “(A) *with reasonable notice; and*

19                 “(B) *with an opportunity for a hearing.*

20     “(e) *ASSISTANCE UNDER OTHER FEDERAL PRO-*  
 21     *GRAMS.*—*Nothing in this title permits a State to reduce*  
 22     *medical and other assistance available, or to alter eligi-*  
 23     *bility, under titles V and XIX of the Social Security Act*  
 24     *with respect to the provision of a free appropriate public*  
 25     *education for children with disabilities in the State.*

1       “(f) *BY-PASS FOR CHILDREN IN PRIVATE SCHOOLS.*—

2               “(1) *IN GENERAL.*—If, on the date of enactment  
3       of the *Education of the Handicapped Act Amend-*  
4       *ments of 1983*, a State educational agency is prohib-  
5       ited by law from providing for the participation in  
6       special programs of children with disabilities enrolled  
7       in private elementary and secondary schools as re-  
8       quired by subsection (a)(10)(A), the Secretary shall,  
9       notwithstanding such provision of law, arrange for  
10      the provision of services to such children through ar-  
11      rangements which shall be subject to the requirements  
12      of such subsection.

13              “(2) *PAYMENTS.*—

14              “(A) *DETERMINATION OF AMOUNTS.*—If the  
15      Secretary arranges for services pursuant to this  
16      subsection, the Secretary, after consultation with  
17      the appropriate public and private school offi-  
18      cials, shall pay to the provider of such services  
19      for a fiscal year an amount per child that does  
20      not exceed the amount determined by dividing—

21              “(i) the total amount received by the  
22      State under this part for such fiscal year;  
23      by

24              “(ii) the number of children with dis-  
25      abilities served in the prior year, as re-

1           *ported to the Secretary by the State under*  
2           *section 618.*

3           “(B)     WITHHOLDING     OF     CERTAIN  
4           *AMOUNTS.—Pending final resolution of any in-*  
5           *vestigation or complaint that could result in a*  
6           *determination under this subsection, the Sec-*  
7           *retary may withhold from the allocation of the*  
8           *affected State educational agency the amount the*  
9           *Secretary estimates would be necessary to pay*  
10          *the cost of services described in subparagraph*  
11          *(A).*

12          “(C) *PERIOD OF PAYMENTS.—The period*  
13          *under which payments are made under subpara-*  
14          *graph (A) shall continue until the Secretary de-*  
15          *termines that there will no longer be any failure*  
16          *or inability on the part of the State educational*  
17          *agency to meet the requirements of subsection*  
18          *(a)(10)(A).*

19          “(3) *NOTICE AND HEARING.—*

20          “(A) *IN GENERAL.—The Secretary shall not*  
21          *take any final action under this subsection until*  
22          *the State educational agency affected by such ac-*  
23          *tion has had an opportunity, for at least 45 days*  
24          *after receiving written notice thereof, to submit*  
25          *written objections and to appear before the Sec-*



1        *retary or the Secretary's designee to show cause*  
2        *why such action should not be taken.*

3                *“(B) REVIEW OF ACTION.—If a State edu-*  
4        *cational agency is dissatisfied with the Sec-*  
5        *retary's final action after a proceeding under*  
6        *subparagraph (A), such agency may, not later*  
7        *than 60 days after notice of such action, file with*  
8        *the United States court of appeals for the circuit*  
9        *in which such State is located a petition for re-*  
10       *view of that action. A copy of the petition shall*  
11       *be forthwith transmitted by the clerk of the court*  
12       *to the Secretary. The Secretary thereupon shall*  
13       *file in the court the record of the proceedings on*  
14       *which the Secretary based the Secretary's action,*  
15       *as provided in section 2112 of title 28, United*  
16       *States Code.*

17                *“(C) REVIEW OF FINDINGS OF FACT.—The*  
18        *findings of fact by the Secretary, if supported by*  
19        *substantial evidence, shall be conclusive, but the*  
20        *court, for good cause shown, may remand the*  
21        *case to the Secretary to take further evidence,*  
22        *and the Secretary may thereupon make new or*  
23        *modified findings of fact and may modify the*  
24        *Secretary's previous action, and shall file in the*  
25        *court the record of the further proceedings. Such*

1           *new or modified findings of fact shall likewise be*  
 2           *conclusive if supported by substantial evidence.*

3                   “(D) *JURISDICTION OF COURT OF APPEALS;*  
 4           *REVIEW BY UNITED STATES SUPREME COURT.—*  
 5           *Upon the filing of a petition under subpara-*  
 6           *graph (B), the United States court of appeals*  
 7           *shall have jurisdiction to affirm the action of the*  
 8           *Secretary or to set it aside, in whole or in part.*  
 9           *The judgment of the court shall be subject to re-*  
 10          *view by the Supreme Court of the United States*  
 11          *upon certiorari or certification as provided in*  
 12          *section 1254 of title 28, United States Code.*

13   **“SEC. 613. LOCAL EDUCATIONAL AGENCY ELIGIBILITY.**

14           “(a) *IN GENERAL.—A local educational agency is eli-*  
 15          *gible for assistance under this part for a fiscal year if such*  
 16          *agency demonstrates to the satisfaction of the State edu-*  
 17          *cational agency that it meets each of the following condi-*  
 18          *tions:*

19                   “(1) *CONSISTENCY WITH STATE POLICIES.—The*  
 20          *local educational agency, in providing for the edu-*  
 21          *cation of children with disabilities within its jurisdic-*  
 22          *tion, has in effect policies, procedures, and programs*  
 23          *that are consistent with the State policies and proce-*  
 24          *dures established under section 612.*

25                   “(2) *USE OF AMOUNTS.—*

1           “(A) *IN GENERAL.*—Amounts provided to  
2           the local educational agency under this part  
3           shall be expended in accordance with the appli-  
4           cable provisions of this part and—

5                   “(i) shall be used only to pay the excess  
6                   costs of providing special education and re-  
7                   lated services to children with disabilities;

8                   “(ii) shall be used to supplement State,  
9                   local, and other Federal funds and not to  
10                  supplant such funds; and

11                  “(iii) shall not be used, except as pro-  
12                  vided in subparagraphs (B) and (C), to re-  
13                  duce the level of expenditures for the edu-  
14                  cation of children with disabilities made by  
15                  the local educational agency from local  
16                  funds below the level of those expenditures  
17                  for the preceding fiscal year.

18           “(B) *EXCEPTION.*—Notwithstanding the re-  
19           striction in subparagraph (A)(iii), a local edu-  
20           cational agency may reduce the level of expendi-  
21           tures where such reduction is attributable to—

22                   “(i) the voluntary departure, by retire-  
23                   ment or otherwise, or departure for just  
24                   cause, of special education personnel;

1           “(ii) a decrease in the enrollment of  
2           children with disabilities;

3           “(iii) the termination of the obligation  
4           of the agency, consistent with this part, to  
5           provide a program of special education to a  
6           particular child with a disability that is an  
7           exceptionally costly program, as determined  
8           by the State educational agency, because the  
9           child—

10                   “(I) has left the jurisdiction of the  
11                   agency;

12                   “(II) has reached the age at which  
13                   the obligation of the agency to provide  
14                   a free appropriate public education to  
15                   the child has terminated; or

16                   “(III) no longer needs such pro-  
17                   gram of special education; or

18                   “(iv) the termination of costly expendi-  
19                   tures for long-term purchases, such as the  
20                   acquisition of equipment or the construction  
21                   of school facilities.

22           “(C) *TREATMENT OF FEDERAL FUNDS IN*  
23           *CERTAIN FISCAL YEARS.*—

24                   (i) Notwithstanding clauses (ii) and  
25                   (iii) of subparagraph (A), for any fiscal

1           year for which amounts appropriated to  
2           carry out section 611 exceeds  
3           \$4,100,000,000, a local educational agency  
4           may treat as local funds, for the purpose of  
5           such clauses, up to 20 percent of the amount  
6           of funds it receives under this part that ex-  
7           ceeds the amount it received under this part  
8           for the previous fiscal year.

9           “(ii) Notwithstanding clause (i), if a  
10          State educational agency determines that a  
11          local educational agency is not meeting the  
12          requirements of this part, the State edu-  
13          cational agency may prohibit the local edu-  
14          cational agency from treating funds re-  
15          ceived under this part as local funds under  
16          clause (i) for any fiscal year, only if it is  
17          authorized to so by the State constitution or  
18          a State statute.

19          “(D) SCHOOLWIDE PROGRAMS UNDER TITLE  
20          I OF THE ESEA.—Notwithstanding subparagraph  
21          (A) or any other provision of this part, a local  
22          educational agency may use funds received under  
23          this part for any fiscal year to carry out a  
24          schoolwide program under section 1114 of the  
25          Elementary and Secondary Education Act of

1           1965, except that the amount so used in any  
2           such program shall not exceed—

3                   “(i) the number of children with dis-  
4                   abilities participating in the schoolwide  
5                   program; multiplied by

6                   “(ii)(I) the amount received by the  
7                   local educational agency under this part for  
8                   that fiscal year; divided by

9                   “(II) the number of children with dis-  
10                  abilities in the jurisdiction of that agency.

11               “(3) *PERSONNEL DEVELOPMENT.*—The local edu-  
12               cational agency—

13                   “(A) shall ensure that all personnel nec-  
14                   essary to carry out this part are appropriately  
15                   and adequately prepared, consistent with the re-  
16                   quirements of section 653(c)(3)(D); and

17                   “(B) to the extent such agency determines  
18                   appropriate, shall contribute to and use the com-  
19                   prehensive system of personnel development of  
20                   the State established under section 612(a)(14).

21               “(4) *PERMISSIVE USE OF FUNDS.*—Notwith-  
22               standing paragraph (2)(A) or section 612(a)(18)(B)  
23               (relating to commingled funds), funds provided to the  
24               local educational agency under this part may be used  
25               for the following activities:

1           “(A) *SERVICES AND AIDS THAT ALSO BENE-*  
2           *FIT NONDISABLED CHILDREN.—For the costs of*  
3           *special education and related services and sup-*  
4           *plementary aids and services provided in a regu-*  
5           *lar class or other education-related setting to a*  
6           *child with a disability in accordance with the*  
7           *individualized education program of the child,*  
8           *even if one or more nondisabled children benefit*  
9           *from such services.*

10           “(B) *INTEGRATED AND COORDINATED SERV-*  
11           *ICES SYSTEM.—To develop and implement a*  
12           *fully integrated and coordinated services system*  
13           *in accordance with subsection (f).*

14           “(5) *TREATMENT OF CHARTER SCHOOLS AND*  
15           *THEIR STUDENTS.—In carrying out this part with re-*  
16           *spect to charter schools that are public schools of the*  
17           *local educational agency, the local educational agen-*  
18           *cy—*

19           “(A) *serves children with disabilities at-*  
20           *tending those schools in the same manner as it*  
21           *serves children with disabilities in its other*  
22           *schools; and*

23           “(B) *provides funds under this part to those*  
24           *schools in the same manner as it provides those*  
25           *funds to its other schools.*

1           “(6) *INFORMATION FOR STATE EDUCATIONAL*  
 2           *AGENCY.*—*The local educational agency shall provide*  
 3           *the State educational agency with information nec-*  
 4           *essary to enable the State educational agency to carry*  
 5           *out its duties under this part, including, with respect*  
 6           *to paragraphs (16) and (17) of section 612(a), infor-*  
 7           *mation relating to the performance of children with*  
 8           *disabilities participating in programs carried out*  
 9           *under this part.*

10           “(7) *PUBLIC INFORMATION.*—*The local edu-*  
 11           *cational agency shall make available to parents of*  
 12           *children with disabilities and to the general public all*  
 13           *documents relating to the eligibility of such agency*  
 14           *under this part.*

15           “(b) *EXCEPTION FOR PRIOR LOCAL PLANS.*—

16           “(1) *IN GENERAL.*—*If a local educational agency*  
 17           *or State agency has on file with the State educational*  
 18           *agency policies and procedures that demonstrate that*  
 19           *such local educational agency, or such State agency,*  
 20           *as the case may be, meets any requirement of sub-*  
 21           *section (a), including any policies and procedures*  
 22           *filed under this part as in effect before the effective*  
 23           *date of the Individuals with Disabilities Education*  
 24           *Act Amendments of 1997, the State educational agen-*  
 25           *cy shall consider such local educational agency or*



1     *State agency, as the case may be, to have met such*  
 2     *requirement for purposes of receiving assistance under*  
 3     *this part.*

4             “(2) *MODIFICATION MADE BY LOCAL EDU-*  
 5     *CATIONAL AGENCY.—Subject to paragraph (3), an ap-*  
 6     *plication submitted by a local educational agency in*  
 7     *accordance with this section shall remain in effect*  
 8     *until it submits to the State educational agency such*  
 9     *modifications as the local educational agency deems*  
 10    *necessary.*

11            “(3) *MODIFICATIONS REQUIRED BY STATE EDU-*  
 12    *CATIONAL AGENCY.—If, after the effective date of the*  
 13    *Individuals with Disabilities Education Act Amend-*  
 14    *ments of 1997, the provisions of this Act are amended*  
 15    *(or the regulations developed to carry out this Act are*  
 16    *amended), or there is a new interpretation of this Act*  
 17    *by Federal or State courts, or there is an official find-*  
 18    *ing of noncompliance with Federal or State law or*  
 19    *regulations, the State educational agency may require*  
 20    *a local educational agency to modify its application*  
 21    *only to the extent necessary to ensure the local edu-*  
 22    *cational agency’s compliance with this part or State*  
 23    *law.*

24            “(c) *NOTIFICATION OF LOCAL EDUCATIONAL AGENCY*  
 25    *OR STATE AGENCY IN CASE OF INELIGIBILITY.—If the*

1 *State educational agency determines that a local edu-*  
 2 *cational agency or State agency is not eligible under this*  
 3 *section, the State educational agency shall notify the local*  
 4 *educational agency or State agency, as the case may be,*  
 5 *of that determination and shall provide such local edu-*  
 6 *cational agency or State agency with reasonable notice and*  
 7 *an opportunity for a hearing.*

8 “(d) *LOCAL EDUCATIONAL AGENCY COMPLIANCE.*—

9 “(1) *IN GENERAL.*—*If the State educational*  
 10 *agency, after reasonable notice and an opportunity*  
 11 *for a hearing, finds that a local educational agency*  
 12 *or State agency that has been determined to be eligi-*  
 13 *ble under this section is failing to comply with any*  
 14 *requirement described in subsection (a), the State*  
 15 *educational agency shall reduce or shall not provide*  
 16 *any further payments to the local educational agency*  
 17 *or State agency until the State educational agency is*  
 18 *satisfied that the local educational agency or State*  
 19 *agency, as the case may be, is complying with that*  
 20 *requirement.*

21 “(2) *ADDITIONAL REQUIREMENT.*—*Any State*  
 22 *agency or local educational agency in receipt of a no-*  
 23 *tice described in paragraph (1) shall, by means of*  
 24 *public notice, take such measures as may be necessary*  
 25 *to bring the pendency of an action pursuant to this*

1 subsection to the attention of the public within the ju-  
 2 risdiction of such agency.

3 “(3) *CONSIDERATION.*—*In carrying out its re-*  
 4 *sponsibilities under paragraph (1), the State edu-*  
 5 *cational agency shall consider any decision made in*  
 6 *a hearing held under section 615 that is adverse to*  
 7 *the local educational agency or State agency involved*  
 8 *in that decision.*

9 “(e) *JOINT ESTABLISHMENT OF ELIGIBILITY.*—

10 “(1) *JOINT ESTABLISHMENT.*—

11 “(A) *IN GENERAL.*—*A State educational*  
 12 *agency may require a local educational agency*  
 13 *to establish its eligibility jointly with another*  
 14 *local educational agency if the State educational*  
 15 *agency determines that the local educational*  
 16 *agency would be ineligible under this section be-*  
 17 *cause the local educational agency would not be*  
 18 *able to establish and maintain programs of suffi-*  
 19 *cient size and scope to effectively meet the needs*  
 20 *of children with disabilities.*

21 “(B) *CHARTER SCHOOL EXCEPTION.*—*A*  
 22 *State educational agency may not require a*  
 23 *charter school that is a local educational agency*  
 24 *to jointly establish its eligibility under subpara-*

1           *graph (A) unless it is explicitly permitted to do*  
 2           *so under the State’s charter school statute.*

3           “(2) *AMOUNT OF PAYMENTS.—If a State edu-*  
 4           *cational agency requires the joint establishment of eli-*  
 5           *gibility under paragraph (1), the total amount of*  
 6           *funds made available to the affected local educational*  
 7           *agencies shall be equal to the sum of the payments*  
 8           *that each such local educational agency would have*  
 9           *received under section 611(g) if such agencies were el-*  
 10          *igible for such payments.*

11          “(3) *REQUIREMENTS.—Local educational agen-*  
 12          *cies that establish joint eligibility under this sub-*  
 13          *section shall—*

14                “(A) *adopt policies and procedures that are*  
 15                *consistent with the State’s policies and proce-*  
 16                *dures under section 612(a); and*

17                “(B) *be jointly responsible for implementing*  
 18                *programs that receive assistance under this part.*

19          “(4) *REQUIREMENTS FOR EDUCATIONAL SERVICE*  
 20          *AGENCIES.—*

21                “(A) *IN GENERAL.—If an educational serv-*  
 22                *ice agency is required by State law to carry out*  
 23                *programs under this part, the joint responsibil-*  
 24                *ities given to local educational agencies under*  
 25                *this subsection shall—*

1                   “(i) not apply to the administration  
2                   and disbursement of any payments received  
3                   by that educational service agency; and

4                   “(ii) be carried out only by that edu-  
5                   cational service agency.

6                   “(B) *ADDITIONAL REQUIREMENT.*—Not-  
7                   withstanding any other provision of this sub-  
8                   section, an educational service agency shall pro-  
9                   vide for the education of children with disabil-  
10                  ities in the least restrictive environment, as re-  
11                  quired by section 612(a)(5).

12                  “(f) *COORDINATED SERVICES SYSTEM.*—

13                  “(1) *IN GENERAL.*—A local educational agency  
14                  may not use more than 5 percent of the amount such  
15                  agency receives under this part for any fiscal year, in  
16                  combination with other amounts (which shall include  
17                  amounts other than education funds), to develop and  
18                  implement a coordinated services system designed to  
19                  improve results for children and families, including  
20                  children with disabilities and their families.

21                  “(2) *ACTIVITIES.*—In implementing a coordi-  
22                  nated services system under this subsection, a local  
23                  educational agency may carry out activities that in-  
24                  clude—

1           “(A) improving the effectiveness and effi-  
 2           ciency of service delivery, including developing  
 3           strategies that promote accountability for results;

4           “(B) service coordination and case manage-  
 5           ment that facilitates the linkage of individual-  
 6           ized education programs under this part and in-  
 7           dividualized family service plans under part C  
 8           with individualized service plans under multiple  
 9           Federal and State programs, such as title I of  
 10          the Rehabilitation Act of 1973 (vocational reha-  
 11          bilitation), title XIX of the Social Security Act  
 12          (Medicaid), and title XVI of the Social Security  
 13          Act (supplemental security income);

14          “(C) developing and implementing inter-  
 15          agency financing strategies for the provision of  
 16          education, health, mental health, and social serv-  
 17          ices, including transition services and related  
 18          services under this Act; and

19          “(D) interagency personnel development for  
 20          individuals working on coordinated services.

21          “(3) COORDINATION WITH CERTAIN PROJECTS  
 22          UNDER ELEMENTARY AND SECONDARY EDUCATION  
 23          ACT OF 1965.—If a local educational agency is carry-  
 24          ing out a coordinated services project under title XI  
 25          of the Elementary and Secondary Education Act of

1     *1965 and a coordinated services project under this*  
2     *part in the same schools, such agency shall use*  
3     *amounts under this subsection in accordance with the*  
4     *requirements of that title.*

5     “(g) *SCHOOL-BASED IMPROVEMENT PLAN.*—

6             “(1) *IN GENERAL.*—*Each local educational agen-*  
7     *cy may, in accordance with paragraph (2), use funds*  
8     *made available under this part to permit a public*  
9     *school within the jurisdiction of the local educational*  
10    *agency to design, implement, and evaluate a school-*  
11    *based improvement plan that is consistent with the*  
12    *purposes described in section 651(b) and that is de-*  
13    *signed to improve educational and transitional re-*  
14    *sults for all children with disabilities and, as appro-*  
15    *priate, for other children consistent with subpara-*  
16    *graphs (A) and (B) of subsection (a)(4) in that public*  
17    *school.*

18            “(2) *AUTHORITY.*—

19               “(A) *IN GENERAL.*—*A State educational*  
20     *agency may grant authority to a local edu-*  
21     *cational agency to permit a public school de-*  
22     *scribed in paragraph (1) (through a school-based*  
23     *standing panel established under paragraph*  
24     *(4)(B)) to design, implement, and evaluate a*

1       *school-based improvement plan described in*  
2       *paragraph (1) for a period not to exceed 3 years.*

3               “(B) *RESPONSIBILITY OF LOCAL EDU-*  
4       *CATIONAL AGENCY.—If a State educational agen-*  
5       *cy grants the authority described in subpara-*  
6       *graph (A), a local educational agency that is*  
7       *granted such authority shall have the sole re-*  
8       *sponsibility of oversight of all activities relating*  
9       *to the design, implementation, and evaluation of*  
10       *any school-based improvement plan that a public*  
11       *school is permitted to design under this sub-*  
12       *section.*

13              “(3) *PLAN REQUIREMENTS.—A school-based im-*  
14       *provement plan described in paragraph (1) shall—*

15              “(A) *be designed to be consistent with the*  
16       *purposes described in section 651(b) and to im-*  
17       *prove educational and transitional results for all*  
18       *children with disabilities and, as appropriate,*  
19       *for other children consistent with subparagraphs*  
20       *(A) and (B) of subsection (a)(4), who attend the*  
21       *school for which the plan is designed and imple-*  
22       *mented;*

23              “(B) *be designed, evaluated, and, as appro-*  
24       *priate, implemented by a school-based standing*



1       panel established in accordance with paragraph  
2       (4)(B);

3               “(C) include goals and measurable indica-  
4       tors to assess the progress of the public school in  
5       meeting such goals; and

6               “(D) ensure that all children with disabil-  
7       ities receive the services described in the individ-  
8       ualized education programs of such children.

9               “(4) *RESPONSIBILITIES OF THE LOCAL EDU-*  
10       *CATIONAL AGENCY.*—A local educational agency that  
11       is granted authority under paragraph (2) to permit  
12       a public school to design, implement, and evaluate a  
13       school-based improvement plan shall—

14               “(A) select each school under the jurisdic-  
15       tion of such agency that is eligible to design, im-  
16       plement, and evaluate such a plan;

17               “(B) require each school selected under sub-  
18       paragraph (A), in accordance with criteria es-  
19       tablished by such local educational agency under  
20       subparagraph (C), to establish a school-based  
21       standing panel to carry out the duties described  
22       in paragraph (3)(B);

23               “(C) establish—

1           “(i) criteria that shall be used by such  
2           local educational agency in the selection of  
3           an eligible school under subparagraph (A);

4           “(ii) criteria that shall be used by a  
5           public school selected under subparagraph  
6           (A) in the establishment of a school-based  
7           standing panel to carry out the duties de-  
8           scribed in paragraph (3)(B) and that shall  
9           ensure that the membership of such panel  
10          reflects the diversity of the community in  
11          which the public school is located and in-  
12          cludes, at a minimum—

13               “(I) parents of children with dis-  
14               abilities who attend such public school,  
15               including parents of children with dis-  
16               abilities from unserved and under-  
17               served populations, as appropriate;

18               “(II) special education and gen-  
19               eral education teachers of such public  
20               school;

21               “(III) special education and gen-  
22               eral education administrators, or the  
23               designee of such administrators, of  
24               such public school; and

1                   “(IV) *related services providers*  
2                   *who are responsible for providing serv-*  
3                   *ices to the children with disabilities*  
4                   *who attend such public school; and*

5                   “(iii) *criteria that shall be used by*  
6                   *such local educational agency with respect*  
7                   *to the distribution of funds under this part*  
8                   *to carry out this subsection;*

9                   “(D) *disseminate the criteria established*  
10                  *under subparagraph (C) to local school district*  
11                  *personnel and local parent organizations within*  
12                  *the jurisdiction of such local educational agency;*

13                  “(E) *require a public school that desires to*  
14                  *design, implement, and evaluate a school-based*  
15                  *improvement plan to submit an application at*  
16                  *such time, in such manner, and accompanied by*  
17                  *such information as such local educational agen-*  
18                  *cy shall reasonably require; and*

19                  “(F) *establish procedures for approval by*  
20                  *such local educational agency of a school-based*  
21                  *improvement plan designed under this sub-*  
22                  *section.*

23                  “(5) *LIMITATION.—A school-based improvement*  
24                  *plan described in paragraph (1) may be submitted to*  
25                  *a local educational agency for approval only if a con-*

1        *sensus with respect to any matter relating to the de-*  
 2        *sign, implementation, or evaluation of the goals of*  
 3        *such plan is reached by the school-based standing*  
 4        *panel that designed such plan.*

5                “(6) *ADDITIONAL REQUIREMENTS.*—

6                        “(A) *PARENTAL INVOLVEMENT.*—*In carry-*  
 7                        *ing out the requirements of this subsection, a*  
 8                        *local educational agency shall ensure that the*  
 9                        *parents of children with disabilities are involved*  
 10                        *in the design, evaluation, and, where appro-*  
 11                        *priate, implementation of school-based improve-*  
 12                        *ment plans in accordance with this subsection.*

13                        “(B) *PLAN APPROVAL.*—*A local educational*  
 14                        *agency may approve a school-based improvement*  
 15                        *plan of a public school within the jurisdiction of*  
 16                        *such agency for a period of 3 years, if—*

17                                “(i) *the approval is consistent with the*  
 18                                *policies, procedures, and practices estab-*  
 19                                *lished by such local educational agency and*  
 20                                *in accordance with this subsection; and*

21                                “(ii) *a majority of parents of children*  
 22                                *who are members of the school-based stand-*  
 23                                *ing panel, and a majority of other members*  
 24                                *of the school-based standing panel, that de-*

1           *signed such plan agree in writing to such*  
2           *plan.*

3           “(7) *EXTENSION OF PLAN.*—*If a public school*  
4           *within the jurisdiction of a local educational agency*  
5           *meets the applicable requirements and criteria de-*  
6           *scribed in paragraphs (3) and (4) at the expiration*  
7           *of the 3-year approval period described in paragraph*  
8           *(6)(B), such agency may approve a school-based im-*  
9           *provement plan of such school for an additional 3-*  
10          *year period.*

11          “(h) *DIRECT SERVICES BY THE STATE EDUCATIONAL*  
12          *AGENCY.*—

13               “(1) *IN GENERAL.*—*A State educational agency*  
14               *shall use the payments that would otherwise have been*  
15               *available to a local educational agency or to a State*  
16               *agency to provide special education and related serv-*  
17               *ices directly to children with disabilities residing in*  
18               *the area served by that local agency, or for whom that*  
19               *State agency is responsible, if the State educational*  
20               *agency determines that the local education agency or*  
21               *State agency, as the case may be—*

22                       “(A) *has not provided the information need-*  
23                       *ed to establish the eligibility of such agency*  
24                       *under this section;*

1           “(B) is unable to establish and maintain  
2           programs of free appropriate public education  
3           that meet the requirements of subsection (a);

4           “(C) is unable or unwilling to be consoli-  
5           dated with one or more local educational agen-  
6           cies in order to establish and maintain such pro-  
7           grams; or

8           “(D) has one or more children with disabil-  
9           ities who can best be served by a regional or  
10          State program or service-delivery system de-  
11          signed to meet the needs of such children.

12          “(2) *MANNER AND LOCATION OF EDUCATION AND*  
13          *SERVICES.—The State educational agency may pro-*  
14          *vide special education and related services under*  
15          *paragraph (1) in such manner and at such locations*  
16          *(including regional or State centers) as the State*  
17          *agency considers appropriate. Such education and*  
18          *services shall be provided in accordance with this*  
19          *part.*

20          “(i) *STATE AGENCY ELIGIBILITY.—Any State agency*  
21          *that desires to receive a subgrant for any fiscal year under*  
22          *section 611(g) shall demonstrate to the satisfaction of the*  
23          *State educational agency that—*

24                 “(1) *all children with disabilities who are par-*  
25                 *ticipating in programs and projects funded under this*

1        *part receive a free appropriate public education, and*  
2        *that those children and their parents are provided all*  
3        *the rights and procedural safeguards described in this*  
4        *part; and*

5                *“(2) the agency meets such other conditions of*  
6        *this section as the Secretary determines to be appro-*  
7        *priate.*

8                *“(j) DISCIPLINARY INFORMATION.—The State may re-*  
9        *quire that a local educational agency include in the records*  
10       *of a child with a disability a statement of any current or*  
11       *previous disciplinary action that has been taken against the*  
12       *child and transmit such statement to the same extent that*  
13       *such disciplinary information is included in, and transmit-*  
14       *ted with, the student records of nondisabled children. The*  
15       *statement may include a description of any behavior en-*  
16       *gaged in by the child that required disciplinary action, a*  
17       *description of the disciplinary action taken, and any other*  
18       *information that is relevant to the safety of the child and*  
19       *other individuals involved with the child. If the State*  
20       *adopts such a policy, and the child transfers from one school*  
21       *to another, the transmission of any of the child’s records*  
22       *must include both the child’s current individualized edu-*  
23       *cation program and any such statement of current or pre-*  
24       *vious disciplinary action that has been taken against the*  
25       *child.*

1 **“SEC. 614. EVALUATIONS, ELIGIBILITY DETERMINATIONS,**  
2 **INDIVIDUALIZED EDUCATION PROGRAMS,**  
3 **AND EDUCATIONAL PLACEMENTS.**

4 *“(a) EVALUATIONS AND REEVALUATIONS.—*

5 *“(1) INITIAL EVALUATIONS.—*

6 *“(A) IN GENERAL.—A State educational*  
7 *agency, other State agency, or local educational*  
8 *agency shall conduct a full and individual ini-*  
9 *tial evaluation, in accordance with this para-*  
10 *graph and subsection (b), before the initial pro-*  
11 *vision of special education and related services to*  
12 *a child with a disability under this part.*

13 *“(B) PROCEDURES.—Such initial evalua-*  
14 *tion shall consist of procedures—*

15 *“(i) to determine whether a child is a*  
16 *child with a disability (as defined in sec-*  
17 *tion 602(3)); and*

18 *“(ii) to determine the educational*  
19 *needs of such child.*

20 *“(C) PARENTAL CONSENT.—*

21 *“(i) IN GENERAL.—The agency propos-*  
22 *ing to conduct an initial evaluation to de-*  
23 *termine if the child qualifies as a child with*  
24 *a disability as defined in section 602(3)(A)*  
25 *or 602(3)(B) shall obtain an informed con-*  
26 *sent from the parent of such child before the*



1           *evaluation is conducted. Parental consent*  
 2           *for evaluation shall not be construed as con-*  
 3           *sent for placement for receipt of special edu-*  
 4           *cation and related services.*

5           “(ii) *REFUSAL.*—*If the parents of such*  
 6           *child refuse consent for the evaluation, the*  
 7           *agency may continue to pursue an evalua-*  
 8           *tion by utilizing the mediation and due*  
 9           *process procedures under section 615, except*  
 10          *to the extent inconsistent with State law re-*  
 11          *lating to parental consent.*

12          “(2) *REEVALUATIONS.*—*A local educational*  
 13          *agency shall ensure that a reevaluation of each child*  
 14          *with a disability is conducted—*

15               “(A) *if conditions warrant a reevaluation*  
 16               *or if the child’s parent or teacher requests a re-*  
 17               *evaluation, but at least once every 3 years; and*

18               “(B) *in accordance with subsections (b) and*  
 19               *(c).*

20          “(b) *EVALUATION PROCEDURES.*—

21               “(1) *NOTICE.*—*The local educational agency*  
 22               *shall provide notice to the parents of a child with a*  
 23               *disability, in accordance with subsections (b)(3),*  
 24               *(b)(4), and (c) of section 615, that describes any eval-*  
 25               *uation procedures such agency proposes to conduct.*

1           “(2) *CONDUCT OF EVALUATION.*—*In conducting*  
2       *the evaluation, the local educational agency shall—*

3                   “(A) *use a variety of assessment tools and*  
4       *strategies to gather relevant functional and de-*  
5       *velopmental information, including information*  
6       *provided by the parent, that may assist in deter-*  
7       *mining whether the child is a child with a dis-*  
8       *ability and the content of the child’s individual-*  
9       *ized education program, including information*  
10      *related to enabling the child to be involved in*  
11      *and progress in the general curriculum or, for*  
12      *preschool children, to participate in appropriate*  
13      *activities;*

14                  “(B) *not use any single procedure as the*  
15      *sole criterion for determining whether a child is*  
16      *a child with a disability or determining an ap-*  
17      *propriate educational program for the child; and*

18                  “(C) *use technically sound instruments that*  
19      *may assess the relative contribution of cognitive*  
20      *and behavioral factors, in addition to physical*  
21      *or developmental factors.*

22           “(3) *ADDITIONAL REQUIREMENTS.*—*Each local*  
23      *educational agency shall ensure that—*

24                   “(A) *tests and other evaluation materials*  
25      *used to assess a child under this section—*

1           “(i) are selected and administered so  
2           as not to be discriminatory on a racial or  
3           cultural basis; and

4           “(ii) are provided and administered in  
5           the child’s native language or other mode of  
6           communication, unless it is clearly not fea-  
7           sible to do so; and

8           “(B) any standardized tests that are given  
9           to the child—

10           “(i) have been validated for the specific  
11           purpose for which they are used;

12           “(ii) are administered by trained and  
13           knowledgeable personnel; and

14           “(iii) are administered in accordance  
15           with any instructions provided by the pro-  
16           ducer of such tests;

17           “(C) the child is assessed in all areas of sus-  
18           pected disability; and

19           “(D) assessment tools and strategies that  
20           provide relevant information that directly assists  
21           persons in determining the educational needs of  
22           the child are provided.

23           “(4) DETERMINATION OF ELIGIBILITY.—Upon  
24           completion of administration of tests and other eval-  
25           uation materials—

1           “(A) the determination of whether the child  
 2           is a child with a disability as defined in section  
 3           602(3) shall be made by a team of qualified pro-  
 4           fessionals and the parent of the child in accord-  
 5           ance with paragraph (5); and

6           “(B) a copy of the evaluation report and the  
 7           documentation of determination of eligibility  
 8           will be given to the parent.

9           “(5) SPECIAL RULE FOR ELIGIBILITY DETER-  
 10          MINATION.—In making a determination of eligibility  
 11          under paragraph (4)(A), a child shall not be deter-  
 12          mined to be a child with a disability if the deter-  
 13          minant factor for such determination is lack of in-  
 14          struction in reading or math or limited English pro-  
 15          ficiency.

16          “(c) ADDITIONAL REQUIREMENTS FOR EVALUATION  
 17          AND REEVALUATIONS.—

18               “(1) REVIEW OF EXISTING EVALUATION DATA.—  
 19          As part of an initial evaluation (if appropriate) and  
 20          as part of any reevaluation under this section, the  
 21          IEP Team described in subsection (d)(1)(B) and other  
 22          qualified professionals, as appropriate, shall—

23               “(A) review existing evaluation data on the  
 24          child, including evaluations and information  
 25          provided by the parents of the child, current

1        *classroom-based assessments and observations,*  
2        *and teacher and related services providers obser-*  
3        *vation; and*

4                *“(B) on the basis of that review, and input*  
5        *from the child’s parents, identify what addi-*  
6        *tional data, if any, are needed to determine—*

7                *“(i) whether the child has a particular*  
8        *category of disability, as described in sec-*  
9        *tion 602(3), or, in case of a reevaluation of*  
10       *a child, whether the child continues to have*  
11       *such a disability;*

12               *“(ii) the present levels of performance*  
13       *and educational needs of the child;*

14               *“(iii) whether the child needs special*  
15       *education and related services, or in the*  
16       *case of a reevaluation of a child, whether*  
17       *the child continues to need special education*  
18       *and related services; and*

19               *“(iv) whether any additions or modi-*  
20       *fications to the special education and relat-*  
21       *ed services are needed to enable the child to*  
22       *meet the measurable annual goals set out in*  
23       *the individualized education program of the*  
24       *child and to participate, as appropriate, in*  
25       *the general curriculum.*

1           “(2) *SOURCE OF DATA.*—*The local educational*  
 2           *agency shall administer such tests and other evalua-*  
 3           *tion materials as may be needed to produce the data*  
 4           *identified by the IEP Team under paragraph (1)(B).*

5           “(3) *PARENTAL CONSENT.*—*Each local edu-*  
 6           *cational agency shall obtain informed parental con-*  
 7           *sent, in accordance with subsection (a)(1)(C), prior to*  
 8           *conducting any reevaluation of a child with a disabil-*  
 9           *ity, except that such informed parent consent need not*  
 10          *be obtained if the local educational agency can dem-*  
 11          *onstrate that it had taken reasonable measures to ob-*  
 12          *tain such consent and the child’s parent has failed to*  
 13          *respond.*

14          “(4) *REQUIREMENTS IF ADDITIONAL DATA ARE*  
 15          *NOT NEEDED.*—*If the IEP Team and other qualified*  
 16          *professionals, as appropriate, determine that no addi-*  
 17          *tional data are needed to determine whether the child*  
 18          *continues to be a child with a disability, the local*  
 19          *educational agency—*

20                 “(A) *shall notify the child’s parents of—*

21                         “(i) *that determination and the rea-*  
 22                         *sons for it; and*

23                         “(ii) *the right of such parents to re-*  
 24                         *quest an assessment to determine whether*

1           *the child continues to be a child with a dis-*  
 2           *ability; and*

3           *“(B) shall not be required to conduct such*  
 4           *an assessment unless requested to by the child’s*  
 5           *parents.*

6           *“(5) EVALUATIONS BEFORE CHANGE IN ELIGI-*  
 7           *BILITY.—A local educational agency shall evaluate a*  
 8           *child with a disability in accordance with this section*  
 9           *before determining that the child is no longer a child*  
 10          *with a disability.*

11          *“(d) INDIVIDUALIZED EDUCATION PROGRAMS.—*

12           *“(1) DEFINITIONS.—As used in this title:*

13           *“(A) INDIVIDUALIZED EDUCATION PRO-*  
 14           *GRAM.—The term ‘individualized education pro-*  
 15           *gram’ or ‘IEP’ means a written statement for*  
 16           *each child with a disability that is developed, re-*  
 17           *viewed, and revised in accordance with this sec-*  
 18           *tion and that includes—*

19           *“(i) a statement of the child’s present*  
 20           *levels of educational performance, includ-*  
 21           *ing—*

22           *“(I) how the child’s disability af-*  
 23           *fects the child’s involvement and*  
 24           *progress in the general curriculum; or*

1                   “(II) for preschool children, as  
2                   appropriate, how the disability affects  
3                   the child’s participation in appro-  
4                   priate activities;

5                   “(ii) a statement of measurable annual  
6                   goals, including benchmarks or short-term  
7                   objectives, related to—

8                   “(I) meeting the child’s needs that  
9                   result from the child’s disability to en-  
10                  able the child to be involved in and  
11                  progress in the general curriculum;  
12                  and

13                  “(II) meeting each of the child’s  
14                  other educational needs that result  
15                  from the child’s disability;

16                  “(iii) a statement of the special edu-  
17                  cation and related services and supple-  
18                  mentary aids and services to be provided to  
19                  the child, or on behalf of the child, and a  
20                  statement of the program modifications or  
21                  supports for school personnel that will be  
22                  provided for the child—

23                  “(I) to advance appropriately to-  
24                  ward attaining the annual goals;



1                   “(II) to be involved and progress  
2                   in the general curriculum in accord-  
3                   ance with clause (i) and to participate  
4                   in extracurricular and other nonaca-  
5                   demic activities; and

6                   “(III) to be educated and partici-  
7                   pate with other children with disabil-  
8                   ities and nondisabled children in the  
9                   activities described in this paragraph;

10                  “(iv) an explanation of the extent, if  
11                  any, to which the child will not participate  
12                  with nondisabled children in the regular  
13                  class and in the activities described in  
14                  clause (iii);

15                  “(v)(I) a statement of any individual  
16                  modifications in the administration of  
17                  State or districtwide assessments of student  
18                  achievement that are needed in order for the  
19                  child to participate in such assessment; and

20                  “(II) if the IEP Team determines that  
21                  the child will not participate in a particu-  
22                  lar State or districtwide assessment of stu-  
23                  dent achievement (or part of such an assess-  
24                  ment), a statement of—

1                   “(aa) *why that assessment is not*  
2                   *appropriate for the child; and*

3                   “(bb) *how the child will be as-*  
4                   *sessed;*

5                   “(vi) *the projected date for the begin-*  
6                   *ning of the services and modifications de-*  
7                   *scribed in clause (iii), and the anticipated*  
8                   *frequency, location, and duration of those*  
9                   *services and modifications;*

10                  “(vii)(I) *beginning at age 14, and up-*  
11                  *dated annually, a statement of the transi-*  
12                  *tion service needs of the child under the ap-*  
13                  *plicable components of the child’s IEP that*  
14                  *focuses on the child’s courses of study (such*  
15                  *as participation in advanced-placement*  
16                  *courses or a vocational education program);*

17                  “(II) *beginning at age 16 (or younger,*  
18                  *if determined appropriate by the IEP*  
19                  *Team), a statement of needed transition*  
20                  *services for the child, including, when ap-*  
21                  *propriate, a statement of the interagency re-*  
22                  *sponsibilities or any needed linkages; and*

23                  “(III) *beginning at least one year be-*  
24                  *fore the child reaches the age of majority*  
25                  *under State law, a statement that the child*

1           *has been informed of his or her rights under*  
2           *this title, if any, that will transfer to the*  
3           *child on reaching the age of majority under*  
4           *section 615(m); and*

5                     “(viii) a statement of—

6                             “(I) how the child’s progress to-  
7                             ward the annual goals described in  
8                             clause (ii) will be measured; and

9                             “(II) how the child’s parents will  
10                            be regularly informed (by such means  
11                            as periodic report cards), at least as  
12                            often as parents are informed of their  
13                            nondisabled children’s progress, of—

14                            “(aa) their child’s progress  
15                            toward the annual goals described  
16                            in clause (ii); and

17                            “(bb) the extent to which that  
18                            progress is sufficient to enable the  
19                            child to achieve the goals by the  
20                            end of the year.

21                     “(B) *INDIVIDUALIZED EDUCATION PROGRAM*  
22                     *TEAM.—The term ‘individualized education pro-*  
23                     *gram team’ or ‘IEP Team’ means a group of in-*  
24                     *dividuals composed of—*

1           “(i) the parents of a child with a dis-  
2           ability;

3           “(ii) at least one regular education  
4           teacher of such child (if the child is, or may  
5           be, participating in the regular education  
6           environment);

7           “(iii) at least one special education  
8           teacher, or where appropriate, at least one  
9           special education provider of such child;

10          “(iv) a representative of the local edu-  
11          cational agency who—

12                 “(I) is qualified to provide, or su-  
13                 pervise the provision of, specially de-  
14                 signed instruction to meet the unique  
15                 needs of children with disabilities;

16                 “(II) is knowledgeable about the  
17                 general curriculum; and

18                 “(III) is knowledgeable about the  
19                 availability of resources of the local  
20                 educational agency;

21                 “(v) an individual who can interpret  
22                 the instructional implications of evaluation  
23                 results, who may be a member of the team  
24                 described in clauses (ii) through (vi);

1                   “(vi) at the discretion of the parent or  
2                   the agency, other individuals who have  
3                   knowledge or special expertise regarding the  
4                   child, including related services personnel as  
5                   appropriate; and

6                   “(vii) whenever appropriate, the child  
7                   with a disability.

8                   “(2) *REQUIREMENT THAT PROGRAM BE IN EF-*  
9                   *FECT.—*

10                   “(A) *IN GENERAL.—*At the beginning of  
11                   each school year, each local educational agency,  
12                   State educational agency, or other State agency,  
13                   as the case may be, shall have in effect, for each  
14                   child with a disability in its jurisdiction, an in-  
15                   dividualized education program, as defined in  
16                   paragraph (1)(A).

17                   “(B) *PROGRAM FOR CHILD AGED 3*  
18                   *THROUGH 5.—*In the case of a child with a dis-  
19                   ability aged 3 through 5 (or, at the discretion of  
20                   the State educational agency, a 2 year-old child  
21                   with a disability who will turn age 3 during the  
22                   school year), an individualized family service  
23                   plan that contains the material described in sec-  
24                   tion 636, and that is developed in accordance

1           *with this section, may serve as the IEP of the*  
 2           *child if using that plan as the IEP is—*

3                     “(i) *consistent with State policy; and*

4                     “(ii) *agreed to by the agency and the*  
 5                     *child’s parents.*

6           “(3) *DEVELOPMENT OF IEP.—*

7                     “(A) *IN GENERAL.—In developing each*  
 8                     *child’s IEP, the IEP Team, subject to subpara-*  
 9                     *graph (C), shall consider—*

10                    “(i) *the strengths of the child and the*  
 11                    *concerns of the parents for enhancing the*  
 12                    *education of their child; and*

13                    “(ii) *the results of the initial evalua-*  
 14                    *tion or most recent evaluation of the child.*

15                    “(B) *CONSIDERATION OF SPECIAL FAC-*  
 16                    *TORS.—The IEP Team shall—*

17                    “(i) *in the case of a child whose behav-*  
 18                    *ior impedes his or her learning or that of*  
 19                    *others, consider, when appropriate, strate-*  
 20                    *gies, including positive behavioral interven-*  
 21                    *tions, strategies, and supports to address*  
 22                    *that behavior;*

23                    “(ii) *in the case of a child with limited*  
 24                    *English proficiency, consider the language*

1 *needs of the child as such needs relate to the*  
2 *child's IEP;*

3 *“(iii) in the case of a child who is*  
4 *blind or visually impaired, provide for in-*  
5 *struction in Braille and the use of Braille*  
6 *unless the IEP Team determines, after an*  
7 *evaluation of the child's reading and writ-*  
8 *ing skills, needs, and appropriate reading*  
9 *and writing media (including an evalua-*  
10 *tion of the child's future needs for instruc-*  
11 *tion in Braille or the use of Braille), that*  
12 *instruction in Braille or the use of Braille*  
13 *is not appropriate for the child;*

14 *“(iv) consider the communication*  
15 *needs of the child, and in the case of a child*  
16 *who is deaf or hard of hearing, consider the*  
17 *child's language and communication needs,*  
18 *opportunities for direct communications*  
19 *with peers and professional personnel in the*  
20 *child's language and communication mode,*  
21 *academic level, and full range of needs, in-*  
22 *cluding opportunities for direct instruction*  
23 *in the child's language and communication*  
24 *mode; and*

1                   “(v) consider whether the child requires  
2                   assistive technology devices and services.

3                   “(C) *REQUIREMENT WITH RESPECT TO*  
4                   *REGULAR EDUCATION TEACHER.*—The regular  
5                   education teacher of the child, as a member of  
6                   the IEP Team, shall, to the extent appropriate,  
7                   participate in the development of the IEP of the  
8                   child, including the determination of appro-  
9                   priate positive behavioral interventions and  
10                  strategies and the determination of supple-  
11                  mentary aids and services, program modifica-  
12                  tions, and support for school personnel consistent  
13                  with paragraph (1)(A)(iii).

14                  “(4) *REVIEW AND REVISION OF IEP.*—

15                  “(A) *IN GENERAL.*—The local educational  
16                  agency shall ensure that, subject to subparagraph  
17                  (B), the IEP Team—

18                         “(i) reviews the child’s IEP periodi-  
19                         cally, but not less than annually to deter-  
20                         mine whether the annual goals for the child  
21                         are being achieved; and

22                         “(ii) revises the IEP as appropriate to  
23                         address—



1                   “(I) any lack of expected progress  
2                   toward the annual goals and in the  
3                   general curriculum, where appropriate;

4                   “(II) the results of any reevalua-  
5                   tion conducted under this section;

6                   “(III) information about the child  
7                   provided to, or by, the parents, as de-  
8                   scribed in subsection (c)(1)(B);

9                   “(IV) the child’s anticipated  
10                  needs; or

11                  “(V) other matters.

12                  “(B) REQUIREMENT WITH RESPECT TO  
13                  REGULAR EDUCATION TEACHER.—The regular  
14                  education teacher of the child, as a member of  
15                  the IEP Team, shall, to the extent appropriate,  
16                  participate in the review and revision of the IEP  
17                  of the child.

18                  “(5) FAILURE TO MEET TRANSITION OBJEC-  
19                  TIVES.—If a participating agency, other than the  
20                  local educational agency, fails to provide the transi-  
21                  tion services described in the IEP in accordance with  
22                  paragraph (1)(A)(vii), the local educational agency  
23                  shall reconvene the IEP Team to identify alternative  
24                  strategies to meet the transition objectives for the  
25                  child set out in that program.

1           “(6) *CHILDREN WITH DISABILITIES IN ADULT*  
 2       *PRISONS.*—

3           “(A) *IN GENERAL.*—*The following require-*  
 4       *ments do not apply to children with disabilities*  
 5       *who are convicted as adults under State law and*  
 6       *incarcerated in adult prisons:*

7           “(i) *The requirements contained in sec-*  
 8       *tion 612(a)(17) and paragraph (1)(A)(v) of*  
 9       *this subsection (relating to participation of*  
 10      *children with disabilities in general assess-*  
 11      *ments).*

12          “(ii) *The requirements of subclauses (I*  
 13      *and (II) of paragraph (1)(A)(vii) of this*  
 14      *subsection (relating to transition planning*  
 15      *and transition services), do not apply with*  
 16      *respect to such children whose eligibility*  
 17      *under this part will end, because of their*  
 18      *age, before they will be released from prison.*

19          “(B) *ADDITIONAL REQUIREMENT.*—*If a*  
 20      *child with a disability is convicted as an adult*  
 21      *under State law and incarcerated in an adult*  
 22      *prison, the child’s IEP team may modify the*  
 23      *child’s IEP or placement notwithstanding the re-*  
 24      *quirements of sections 612(a)(5)(A) and*  
 25      *614(d)(1)(A) if the State has demonstrated a*

1           *bona fide security or compelling penological in-*  
 2           *terest that cannot otherwise be accommodated.*

3           “(e) *CONSTRUCTION.*—*Nothing in this section shall be*  
 4           *construed to require the IEP team to include information*  
 5           *under one component of a child’s IEP that is already con-*  
 6           *tained under another component of such IEP.*

7           “(f) *EDUCATIONAL PLACEMENTS.*—*Each local edu-*  
 8           *cational agency or State educational agency shall ensure*  
 9           *that the parents of each child with a disability are members*  
 10           *of any group that makes decisions on the educational place-*  
 11           *ment of their child.*

12   **“SEC. 615. PROCEDURAL SAFEGUARDS.**

13           “(a) *ESTABLISHMENT OF PROCEDURES.*—*Any State*  
 14           *educational agency, State agency, or local educational*  
 15           *agency that receives assistance under this part shall estab-*  
 16           *lish and maintain procedures in accordance with this sec-*  
 17           *tion to ensure that children with disabilities and their par-*  
 18           *ents are guaranteed procedural safeguards with respect to*  
 19           *the provision of free appropriate public education by such*  
 20           *agencies.*

21           “(b) *TYPES OF PROCEDURES.*—*The procedures re-*  
 22           *quired by this section shall include—*

23                   “(1) *an opportunity for the parents of a child*  
 24                   *with a disability to examine all records relating to*  
 25                   *such child and to participate in meetings with respect*

1       to the identification, evaluation, and educational  
2       placement of the child, and the provision of a free ap-  
3       propriate public education to such child, and to ob-  
4       tain an independent educational evaluation of the  
5       child;

6               “(2) procedures to protect the rights of the child  
7       whenever the parents of the child are not known, the  
8       agency cannot, after reasonable efforts, locate the par-  
9       ents, or the child is a ward of the State, including the  
10      assignment of an individual (who shall not be an em-  
11      ployee of the State educational agency, the local edu-  
12      cational agency, or any other agency that is involved  
13      in the education or care of the child) to act as a sur-  
14      rogate for the parents;

15              “(3) written prior notice to the parents of the  
16      child whenever such agency—

17                      “(A) proposes to initiate or change; or

18                      “(B) refuses to initiate or change;

19      the identification, evaluation, or educational place-  
20      ment of the child, in accordance with subsection (c),  
21      or the provision of a free appropriate public edu-  
22      cation to the child;

23              “(4) procedures designed to ensure that the notice  
24      required by paragraph (3) is in the native language

1       *of the parents, unless it clearly is not feasible to do*  
2       *so;*

3               *“(5) an opportunity for mediation in accordance*  
4       *with subsection (e);*

5               *“(6) an opportunity to present complaints with*  
6       *respect to any matter relating to the identification,*  
7       *evaluation, or educational placement of the child, or*  
8       *the provision of a free appropriate public education*  
9       *to such child;*

10              *“(7) procedures that require the parent of a child*  
11       *with a disability, or the attorney representing the*  
12       *child, to provide notice (which shall remain confiden-*  
13       *tial)—*

14                    *“(A) to the State educational agency or*  
15       *local educational agency, as the case may be, in*  
16       *the complaint filed under paragraph (6); and*

17                    *“(B) that shall include—*

18                            *“(i) the name of the child, the address*  
19       *of the residence of the child, and the name*  
20       *of the school the child is attending;*

21                            *“(ii) a description of the nature of the*  
22       *problem of the child relating to such pro-*  
23       *posed initiation or change, including facts*  
24       *relating to such problem; and*

1                   “(iii) a proposed resolution of the  
2                   problem to the extent known and available  
3                   to the parents at the time; and

4                   “(8) procedures that require the State edu-  
5                   cational agency to develop a model form to assist par-  
6                   ents in filing a complaint in accordance with para-  
7                   graph (7).

8                   “(c) *CONTENT OF PRIOR WRITTEN NOTICE.*—The no-  
9                   tice required by subsection (b)(3) shall include—

10                  “(1) a description of the action proposed or re-  
11                  fused by the agency;

12                  “(2) an explanation of why the agency proposes  
13                  or refuses to take the action;

14                  “(3) a description of any other options that the  
15                  agency considered and the reasons why those options  
16                  were rejected;

17                  “(4) a description of each evaluation procedure,  
18                  test, record, or report the agency used as a basis for  
19                  the proposed or refused action;

20                  “(5) a description of any other factors that are  
21                  relevant to the agency’s proposal or refusal;

22                  “(6) a statement that the parents of a child with  
23                  a disability have protection under the procedural  
24                  safeguards of this part and, if this notice is not an  
25                  initial referral for evaluation, the means by which a

1       *copy of a description of the procedural safeguards can*  
 2       *be obtained; and*

3               “(7) *sources for parents to contact to obtain as-*  
 4       *sistance in understanding the provisions of this part.*

5       “(d) *PROCEDURAL SAFEGUARDS NOTICE.—*

6               “(1) *IN GENERAL.—A copy of the procedural*  
 7       *safeguards available to the parents of a child with a*  
 8       *disability shall be given to the parents, at a mini-*  
 9       *mum—*

10               “(A) *upon initial referral for evaluation;*

11               “(B) *upon each notification of an individ-*  
 12       *ualized education program meeting and upon re-*  
 13       *evaluation of the child; and*

14               “(C) *upon registration of a complaint*  
 15       *under subsection (b)(6).*

16               “(2) *CONTENTS.—The procedural safeguards no-*  
 17       *tice shall include a full explanation of the procedural*  
 18       *safeguards, written in the native language of the par-*  
 19       *ents, unless it clearly is not feasible to do so, and*  
 20       *written in an easily understandable manner, avail-*  
 21       *able under this section and under regulations promul-*  
 22       *gated by the Secretary relating to—*

23               “(A) *independent educational evaluation;*

24               “(B) *prior written notice;*

25               “(C) *parental consent;*

1                   “(D) access to educational records;

2                   “(E) opportunity to present complaints;

3                   “(F) the child’s placement during pendency  
4 of due process proceedings;

5                   “(G) procedures for students who are subject  
6 to placement in an interim alternative edu-  
7 cational setting;

8                   “(H) requirements for unilateral placement  
9 by parents of children in private schools at pub-  
10 lic expense;

11                  “(I) mediation;

12                  “(J) due process hearings, including re-  
13 quirements for disclosure of evaluation results  
14 and recommendations;

15                  “(K) State-level appeals (if applicable in  
16 that State);

17                  “(L) civil actions; and

18                  “(M) attorneys’ fees.

19           “(e) *MEDIATION*.—

20                   “(1) *IN GENERAL*.—Any State educational agen-  
21 cy or local educational agency that receives assistance  
22 under this part shall ensure that procedures are estab-  
23 lished and implemented to allow parties to disputes  
24 involving any matter described in subsection (b)(6) to  
25 resolve such disputes through a mediation process



1       *which, at a minimum, shall be available whenever a*  
2       *hearing is requested under subsection (f) or (k).*

3               “(2) *REQUIREMENTS.—Such procedures shall*  
4       *meet the following requirements:*

5                       “(A) *The procedures shall ensure that the*  
6       *mediation process—*

7                               “(i) *is voluntary on the part of the*  
8       *parties;*

9                               “(ii) *is not used to deny or delay a*  
10       *parent’s right to a due process hearing*  
11       *under subsection (f), or to deny any other*  
12       *rights afforded under this part; and*

13                              “(iii) *is conducted by a qualified and*  
14       *impartial mediator who is trained in effec-*  
15       *tive mediation techniques.*

16                       “(B) *A local educational agency or a State*  
17       *agency may establish procedures to require par-*  
18       *ents who choose not to use the mediation process*  
19       *to meet, at a time and location convenient to the*  
20       *parents, with a disinterested party who is under*  
21       *contract with—*

22                              “(i) *a parent training and informa-*  
23       *tion center or community parent resource*  
24       *center in the State established under section*  
25       *682 or 683; or*

1                   “(ii) an appropriate alternative dis-  
2                   pute resolution entity;  
3                   to encourage the use, and explain the benefits, of  
4                   the mediation process to the parents.

5                   “(C) The State shall maintain a list of in-  
6                   dividuals who are qualified mediators and  
7                   knowledgeable in laws and regulations relating  
8                   to the provision of special education and related  
9                   services.

10                  “(D) The State shall bear the cost of the me-  
11                  diation process, including the costs of meetings  
12                  described in subparagraph (B).

13                  “(E) Each session in the mediation process  
14                  shall be scheduled in a timely manner and shall  
15                  be held in a location that is convenient to the  
16                  parties to the dispute.

17                  “(F) An agreement reached by the parties to  
18                  the dispute in the mediation process shall be set  
19                  forth in a written mediation agreement.

20                  “(G) Discussions that occur during the me-  
21                  diation process shall be confidential and may  
22                  not be used as evidence in any subsequent due  
23                  process hearings or civil proceedings and the  
24                  parties to the mediation process may be required

1           to sign a confidentiality pledge prior to the com-  
2           mencement of such process.

3           “(f) *IMPARTIAL DUE PROCESS HEARING.*—

4                 “(1) *IN GENERAL.*—Whenever a complaint has  
5           been received under subsection (b)(6) or (k) of this  
6           section, the parents involved in such complaint shall  
7           have an opportunity for an impartial due process  
8           hearing, which shall be conducted by the State edu-  
9           cational agency or by the local educational agency, as  
10          determined by State law or by the State educational  
11          agency.

12           “(2) *DISCLOSURE OF EVALUATIONS AND REC-*  
13          *COMMENDATIONS.*—

14                 “(A) *IN GENERAL.*—At least 5 business days  
15          prior to a hearing conducted pursuant to para-  
16          graph (1), each party shall disclose to all other  
17          parties all evaluations completed by that date  
18          and recommendations based on the offering par-  
19          ty’s evaluations that the party intends to use at  
20          the hearing.

21                 “(B) *FAILURE TO DISCLOSE.*—A hearing of-  
22          ficer may bar any party that fails to comply  
23          with subparagraph (A) from introducing the rel-  
24          evant evaluation or recommendation at the hear-  
25          ing without the consent of the other party.

1           “(3) *LIMITATION ON CONDUCT OF HEARING.*—A  
2       *hearing conducted pursuant to paragraph (1) may*  
3       *not be conducted by an employee of the State edu-*  
4       *cational agency or the local educational agency in-*  
5       *volved in the education or care of the child.*

6           “(g) *APPEAL.*—*If the hearing required by subsection*  
7       *(f) is conducted by a local educational agency, any party*  
8       *aggrieved by the findings and decision rendered in such a*  
9       *hearing may appeal such findings and decision to the State*  
10       *educational agency. Such agency shall conduct an impar-*  
11       *tial review of such decision. The officer conducting such re-*  
12       *view shall make an independent decision upon completion*  
13       *of such review.*

14           “(h) *SAFEGUARDS.*—*Any party to a hearing conducted*  
15       *pursuant to subsection (f) or (k), or an appeal conducted*  
16       *pursuant to subsection (g), shall be accorded—*

17                “(1) *the right to be accompanied and advised by*  
18       *counsel and by individuals with special knowledge or*  
19       *training with respect to the problems of children with*  
20       *disabilities;*

21                “(2) *the right to present evidence and confront,*  
22       *cross-examine, and compel the attendance of wit-*  
23       *nesses;*

1           “(3) *the right to a written, or, at the option of*  
 2           *the parents, electronic verbatim record of such hear-*  
 3           *ing; and*

4           “(4) *the right to written, or, at the option of the*  
 5           *parents, electronic findings of fact and decisions*  
 6           *(which findings and decisions shall be made available*  
 7           *to the public consistent with the requirements of sec-*  
 8           *tion 617(c) (relating to the confidentiality of data, in-*  
 9           *formation, and records) and shall also be transmitted*  
 10           *to the advisory panel established pursuant to section*  
 11           *612(a)(21)).*

12           “(i) *ADMINISTRATIVE PROCEDURES.—*

13           “(1) *IN GENERAL.—*

14           “(A) *DECISION MADE IN HEARING.—A deci-*  
 15           *sion made in a hearing conducted pursuant to*  
 16           *subsection (f) or (k) shall be final, except that*  
 17           *any party involved in such hearing may appeal*  
 18           *such decision under the provisions of subsection*  
 19           *(g) and paragraph (2) of this subsection.*

20           “(B) *DECISION MADE AT APPEAL.—A deci-*  
 21           *sion made under subsection (g) shall be final, ex-*  
 22           *cept that any party may bring an action under*  
 23           *paragraph (2) of this subsection.*

24           “(2) *RIGHT TO BRING CIVIL ACTION.—*

1           “(A) *IN GENERAL.*—Any party aggrieved by  
 2           the findings and decision made under subsection  
 3           (f) or (k) who does not have the right to an ap-  
 4           peal under subsection (g), and any party ag-  
 5           grieved by the findings and decision under this  
 6           subsection, shall have the right to bring a civil  
 7           action with respect to the complaint presented  
 8           pursuant to this section, which action may be  
 9           brought in any State court of competent jurisdic-  
 10          tion or in a district court of the United States  
 11          without regard to the amount in controversy.

12           “(B) *ADDITIONAL REQUIREMENTS.*—In any  
 13          action brought under this paragraph, the court—

14                   “(i) shall receive the records of the ad-  
 15                   ministrative proceedings;

16                   “(ii) shall hear additional evidence at  
 17                   the request of a party; and

18                   “(iii) basing its decision on the pre-  
 19                   ponderance of the evidence, shall grant such  
 20                   relief as the court determines is appro-  
 21                   priate.

22           “(3) *JURISDICTION OF DISTRICT COURTS; ATTOR-*  
 23          *NEYS’ FEES.*—

24           “(A) *IN GENERAL.*—The district courts of  
 25          the United States shall have jurisdiction of ac-

1        *tions brought under this section without regard*  
2        *to the amount in controversy.*

3                “(B) *AWARD OF ATTORNEYS’ FEES.—In*  
4        *any action or proceeding brought under this sec-*  
5        *tion, the court, in its discretion, may award rea-*  
6        *sonable attorneys’ fees as part of the costs to the*  
7        *parents of a child with a disability who is the*  
8        *prevailing party.*

9                “(C) *DETERMINATION OF AMOUNT OF AT-*  
10        *TORNEYS’ FEES.—Fees awarded under this para-*  
11        *graph shall be based on rates prevailing in the*  
12        *community in which the action or proceeding*  
13        *arose for the kind and quality of services fur-*  
14        *nished. No bonus or multiplier may be used in*  
15        *calculating the fees awarded under this sub-*  
16        *section.*

17                “(D) *PROHIBITION OF ATTORNEYS’ FEES*  
18        *AND RELATED COSTS FOR CERTAIN SERVICES.—*

19                “(i) *Attorneys’ fees may not be award-*  
20        *ed and related costs may not be reimbursed*  
21        *in any action or proceeding under this sec-*  
22        *tion for services performed subsequent to the*  
23        *time of a written offer of settlement to a*  
24        *parent if—*

1           “(I) the offer is made within the  
2           time prescribed by Rule 68 of the Fed-  
3           eral Rules of Civil Procedure or, in the  
4           case of an administrative proceeding,  
5           at any time more than ten days before  
6           the proceeding begins;

7           “(II) the offer is not accepted  
8           within 10 days; and

9           “(III) the court or administrative  
10          hearing officer finds that the relief fi-  
11          nally obtained by the parents is not  
12          more favorable to the parents than the  
13          offer of settlement.

14          “(ii) Attorneys’ fees may not be award-  
15          ed relating to any meeting of the IEP Team  
16          unless such meeting is convened as a result  
17          of an administrative proceeding or judicial  
18          action, or, at the discretion of the State, for  
19          a mediation described in subsection (e) that  
20          is conducted prior to the filing of a com-  
21          plaint under subsection (b)(6) or (k) of this  
22          section.

23          “(E) EXCEPTION TO PROHIBITION ON AT-  
24          TORNEYS’ FEES AND RELATED COSTS.—Notwith-  
25          standing subparagraph (D), an award of attor-



1        *neys' fees and related costs may be made to a*  
2        *parent who is the prevailing party and who was*  
3        *substantially justified in rejecting the settlement*  
4        *offer.*

5                *“(F) REDUCTION IN AMOUNT OF ATTOR-*  
6        *NEYS' FEES.—Except as provided in subpara-*  
7        *graph (G), whenever the court finds that—*

8                *“(i) the parent, during the course of*  
9        *the action or proceeding, unreasonably pro-*  
10       *tracted the final resolution of the con-*  
11       *troversy;*

12               *“(ii) the amount of the attorneys' fees*  
13       *otherwise authorized to be awarded unrea-*  
14       *sonably exceeds the hourly rate prevailing*  
15       *in the community for similar services by at-*  
16       *torneys of reasonably comparable skill, rep-*  
17       *utation, and experience;*

18               *“(iii) the time spent and legal services*  
19       *furnished were excessive considering the na-*  
20       *ture of the action or proceeding; or*

21               *“(iv) the attorney representing the par-*  
22       *ent did not provide to the school district the*  
23       *appropriate information in the due process*  
24       *complaint in accordance with subsection*  
25       *(b)(7);*

1           *the court shall reduce, accordingly, the amount of*  
 2           *the attorneys' fees awarded under this section.*

3                   “(G) *EXCEPTION TO REDUCTION IN AMOUNT*  
 4           *OF ATTORNEYS' FEES.—The provisions of sub-*  
 5           *paragraph (F) shall not apply in any action or*  
 6           *proceeding if the court finds that the State or*  
 7           *local educational agency unreasonably protracted*  
 8           *the final resolution of the action or proceeding or*  
 9           *there was a violation of this section.*

10           “(j) *MAINTENANCE OF CURRENT EDUCATIONAL*  
 11    *PLACEMENT.—Except as provided in subsection (k)(7), dur-*  
 12    *ing the pendency of any proceedings conducted pursuant*  
 13    *to this section, unless the State or local educational agency*  
 14    *and the parents otherwise agree, the child shall remain in*  
 15    *the then-current educational placement of such child, or, if*  
 16    *applying for initial admission to a public school, shall,*  
 17    *with the consent of the parents, be placed in the public*  
 18    *school program until all such proceedings have been com-*  
 19    *pleted.*

20           “(k) *PLACEMENT IN ALTERNATIVE EDUCATIONAL SET-*  
 21    *TING.—*

22                   “(1) *AUTHORITY OF SCHOOL PERSONNEL.—*

23                           “(A) *School personnel under this section*  
 24           *may order a change in the placement of a child*  
 25           *with a disability—*

1 “(i) to an appropriate interim alter-  
2 native educational setting, another setting,  
3 or suspension, for not more than 10 school  
4 days (to the extent such alternatives would  
5 be applied to children without disabilities);  
6 and

7 “(ii) to an appropriate interim alter-  
8 native educational setting for the same  
9 amount of time that a child without a dis-  
10 ability would be subject to discipline, but  
11 for not more than 45 days if—

12 “(I) the child carries a weapon to  
13 school or to a school function under the  
14 jurisdiction of a State or a local edu-  
15 cational agency; or

16 “(II) the child knowingly possesses  
17 or uses illegal drugs or sells or solicits  
18 the sale of a controlled substance while  
19 at school or a school function under the  
20 jurisdiction of a State or local edu-  
21 cational agency.

22 “(B) Either before or not later than 10 days  
23 after taking a disciplinary action described in  
24 subparagraph (A)—

1           “(i) if the local educational agency did  
2           not conduct a functional behavioral assess-  
3           ment and implement a behavioral interven-  
4           tion plan for such child before the behavior  
5           that resulted in the suspension described in  
6           subparagraph (A), the agency shall convene  
7           an IEP meeting to develop an assessment  
8           plan to address that behavior; or

9           “(ii) if the child already has a behav-  
10          ioral intervention plan, the IEP Team shall  
11          review the plan and modify it, as necessary,  
12          to address the behavior.

13          “(2) *AUTHORITY OF HEARING OFFICER.*—A  
14          hearing officer under this section may order a change  
15          in the placement of a child with a disability to an  
16          appropriate interim alternative educational setting  
17          for not more than 45 days if the hearing officer—

18               “(A) determines that the public agency has  
19               demonstrated by substantial evidence that main-  
20               taining the current placement of such child is  
21               substantially likely to result in injury to the  
22               child or to others;

23               “(B) considers the appropriateness of the  
24               child’s current placement;

1           “(C) considers whether the public agency  
2           has made reasonable efforts to minimize the risk  
3           of harm in the child’s current placement, includ-  
4           ing the use of supplementary aids and services;  
5           and

6           “(D) determines that the interim alternative  
7           educational setting meets the requirements of  
8           paragraph (3)(B).

9           “(3) DETERMINATION OF SETTING.—

10           “(A) IN GENERAL.—The alternative edu-  
11           cational setting described in paragraph  
12           (1)(A)(ii) shall be determined by the IEP Team.

13           “(B) ADDITIONAL REQUIREMENTS.—Any  
14           interim alternative educational setting in which  
15           a child is placed under paragraph (1) or (2)  
16           shall—

17           “(i) be selected so as to enable the child  
18           to continue to participate in the general  
19           curriculum, although in another setting,  
20           and to continue to receive those services and  
21           modifications, including those described in  
22           the child’s current IEP, that will enable the  
23           child to meet the goals set out in that IEP;  
24           and

1                   “(ii) include services and modifications  
 2                   designed to address the behavior described  
 3                   in paragraph (1) or paragraph (2) so that  
 4                   it does not recur.

5                   “(4)   MANIFESTATION   DETERMINATION   RE-  
 6                   VIEW.—

7                   “(A) IN GENERAL.—If a disciplinary action  
 8                   is contemplated as described in paragraph (1) or  
 9                   paragraph (2) for a behavior of a child with a  
 10                  disability described in either of those para-  
 11                  graphs, or if a disciplinary action involving a  
 12                  change of placement for more than 10 days is  
 13                  contemplated for a child with a disability who  
 14                  has engaged in other behavior that violated any  
 15                  rule or code of conduct of the local educational  
 16                  agency that applies to all children—

17                  “(i) not later than the date on which  
 18                  the decision to take that action is made, the  
 19                  parents shall be notified of that decision  
 20                  and of all procedural safeguards accorded  
 21                  under this section; and

22                  “(ii) immediately, if possible, but in  
 23                  no case later than 10 school days after the  
 24                  date on which the decision to take that ac-  
 25                  tion is made, a review shall be conducted of

1           *the relationship between the child’s disabil-*  
2           *ity and the behavior subject to the discipli-*  
3           *nary action.*

4           “(B) *INDIVIDUALS TO CARRY OUT RE-*  
5           *VIEW.—A review described in subparagraph (A)*  
6           *shall be conducted by the IEP Team and other*  
7           *qualified personnel.*

8           “(C) *CONDUCT OF REVIEW.—In carrying*  
9           *out a review described in subparagraph (A), the*  
10          *IEP Team may determine that the behavior of*  
11          *the child was not a manifestation of such child’s*  
12          *disability only if the IEP Team—*

13               “(i) *first considers, in terms of the be-*  
14               *havior subject to disciplinary action, all rel-*  
15               *evant information, including—*

16                       “(I) *evaluation and diagnostic re-*  
17                       *sults, including such results or other*  
18                       *relevant information supplied by the*  
19                       *parents of the child;*

20                       “(II) *observations of the child;*  
21                       *and*

22                       “(III) *the child’s IEP and place-*  
23                       *ment; and*

24                       “(ii) *then determines that—*

1 “(I) in relationship to the behav-  
2 ior subject to disciplinary action, the  
3 child’s IEP and placement were appro-  
4 priate and the special education serv-  
5 ices, supplementary aids and services,  
6 and behavior intervention strategies  
7 were provided consistent with the  
8 child’s IEP and placement;

9 “(II) the child’s disability did not  
10 impair the ability of the child to un-  
11 derstand the impact and consequences  
12 of the behavior subject to disciplinary  
13 action; and

14 “(III) the child’s disability did  
15 not impair the ability of the child to  
16 control the behavior subject to discipli-  
17 nary action.

18 “(5) DETERMINATION THAT BEHAVIOR WAS NOT  
19 MANIFESTATION OF DISABILITY.—

20 “(A) IN GENERAL.—If the result of the re-  
21 view described in paragraph (4) is a determina-  
22 tion, consistent with paragraph (4)(C), that the  
23 behavior of the child with a disability was not  
24 a manifestation of the child’s disability, the rel-  
25 evant disciplinary procedures applicable to chil-



1        *dren without disabilities may be applied to the*  
2        *child in the same manner in which they would*  
3        *be applied to children without disabilities, except*  
4        *as provided in section 612(a)(1).*

5                *“(B) ADDITIONAL REQUIREMENT.—If the*  
6        *public agency initiates disciplinary procedures*  
7        *applicable to all children, the agency shall ensure*  
8        *that the special education and disciplinary*  
9        *records of the child with a disability are trans-*  
10       *mitted for consideration by the person or persons*  
11       *making the final determination regarding the*  
12       *disciplinary action.*

13        *“(6) PARENT APPEAL.—*

14                *“(A) IN GENERAL.—*

15                        *“(i) If the child’s parent disagrees with*  
16        *a determination that the child’s behavior*  
17        *was not a manifestation of the child’s dis-*  
18        *ability or with any decision regarding*  
19        *placement, the parent may request a hear-*  
20        *ing.*

21                        *“(ii) The State or local educational*  
22        *agency shall arrange for an expedited hear-*  
23        *ing in any case described in this subsection*  
24        *when requested by a parent.*

25                *“(B) REVIEW OF DECISION.—*

1           “(i) *In reviewing a decision with re-*  
2           *spect to the manifestation determination,*  
3           *the hearing officer shall determine whether*  
4           *the public agency has demonstrated that the*  
5           *child’s behavior was not a manifestation of*  
6           *such child’s disability consistent with the*  
7           *requirements of paragraph (4)(C).*

8           “(ii) *In reviewing a decision under*  
9           *paragraph (1)(A)(ii) to place the child in*  
10          *an interim alternative educational setting,*  
11          *the hearing officer shall apply the standards*  
12          *set out in paragraph (2).*

13          “(7) *PLACEMENT DURING APPEALS.—*

14          “(A) *IN GENERAL.—When a parent requests*  
15          *a hearing regarding a disciplinary action de-*  
16          *scribed in paragraph (1)(A)(ii) or paragraph (2)*  
17          *to challenge the interim alternative educational*  
18          *setting or the manifestation determination, the*  
19          *child shall remain in the interim alternative*  
20          *educational setting pending the decision of the*  
21          *hearing officer or until the expiration of the time*  
22          *period provided for in paragraph (1)(A)(ii) or*  
23          *paragraph (2), whichever occurs first, unless the*  
24          *parent and the State or local educational agency*  
25          *agree otherwise.*

1           “(B) *CURRENT PLACEMENT.*—If a child is  
2           placed in an interim alternative educational set-  
3           ting pursuant to paragraph (1)(A)(ii) or para-  
4           graph (2) and school personnel propose to change  
5           the child’s placement after expiration of the in-  
6           terim alternative placement, during the pend-  
7           ency of any proceeding to challenge the proposed  
8           change in placement, the child shall remain in  
9           the current placement (the child’s placement  
10          prior to the interim alternative educational set-  
11          ting), except as provided in subparagraph (C).

12          “(C) *EXPEDITED HEARING.*—

13               “(i) If school personnel maintain that  
14               it is dangerous for the child to be in the  
15               current placement (placement prior to re-  
16               moval to the interim alternative education  
17               setting) during the pendency of the due  
18               process proceedings, the local educational  
19               agency may request an expedited hearing.

20               “(ii) In determining whether the child  
21               may be placed in the alternative edu-  
22               cational setting or in another appropriate  
23               placement ordered by the hearing officer, the  
24               hearing officer shall apply the standards set  
25               out in paragraph (2).

1           “(8) *PROTECTIONS FOR CHILDREN NOT YET ELI-*  
2           *GIBLE FOR SPECIAL EDUCATION AND RELATED SERV-*  
3           *ICES.*—

4                   “(A) *IN GENERAL.*—*A child who has not*  
5                   *been determined to be eligible for special edu-*  
6                   *cation and related services under this part and*  
7                   *who has engaged in behavior that violated any*  
8                   *rule or code of conduct of the local educational*  
9                   *agency, including any behavior described in*  
10                  *paragraph (1), may assert any of the protections*  
11                  *provided for in this part if the local educational*  
12                  *agency had knowledge (as determined in accord-*  
13                  *ance with this paragraph) that the child was a*  
14                  *child with a disability before the behavior that*  
15                  *precipitated the disciplinary action occurred.*

16                  “(B) *BASIS OF KNOWLEDGE.*—*A local edu-*  
17                  *cational agency shall be deemed to have knowl-*  
18                  *edge that a child is a child with a disability if—*

19                          “(i) *the parent of the child has ex-*  
20                          *pressed concern in writing (unless the par-*  
21                          *ent is illiterate or has a disability that pre-*  
22                          *vents compliance with the requirements con-*  
23                          *tained in this clause) to personnel of the ap-*  
24                          *propriate educational agency that the child*

1 *is in need of special education and related*  
2 *services;*

3 “(ii) *the behavior or performance of the*  
4 *child demonstrates the need for such serv-*  
5 *ices;*

6 “(iii) *the parent of the child has re-*  
7 *quested an evaluation of the child pursuant*  
8 *to section 614; or*

9 “(iv) *the teacher of the child, or other*  
10 *personnel of the local educational agency,*  
11 *has expressed concern about the behavior or*  
12 *performance of the child to the director of*  
13 *special education of such agency or to other*  
14 *personnel of the agency.*

15 “(C) *CONDITIONS THAT APPLY IF NO BASIS*  
16 *OF KNOWLEDGE.—*

17 “(i) *IN GENERAL.—If a local edu-*  
18 *cational agency does not have knowledge*  
19 *that a child is a child with a disability (in*  
20 *accordance with subparagraph (B)) prior to*  
21 *taking disciplinary measures against the*  
22 *child, the child may be subjected to the same*  
23 *disciplinary measures as measures applied*  
24 *to children without disabilities who engaged*

1           *in comparable behaviors consistent with*  
2           *clause (ii).*

3           “(ii) *LIMITATIONS.—If a request is*  
4           *made for an evaluation of a child during*  
5           *the time period in which the child is sub-*  
6           *jected to disciplinary measures under para-*  
7           *graph (1) or (2), the evaluation shall be*  
8           *conducted in an expedited manner. If the*  
9           *child is determined to be a child with a dis-*  
10           *ability, taking into consideration informa-*  
11           *tion from the evaluation conducted by the*  
12           *agency and information provided by the*  
13           *parents, the agency shall provide special*  
14           *education and related services in accordance*  
15           *with the provisions of this part, except that,*  
16           *pending the results of the evaluation, the*  
17           *child shall remain in the educational place-*  
18           *ment determined by school authorities.*

19           “(9) *REFERRAL TO AND ACTION BY LAW EN-*  
20           *FORCEMENT AND JUDICIAL AUTHORITIES.—*

21           “(A) *Nothing in this part shall be construed*  
22           *to prohibit an agency from reporting a crime*  
23           *committed by a child with a disability to appro-*  
24           *priate authorities or to prevent State law en-*  
25           *forcement and judicial authorities from exercis-*

1        *ing their responsibilities with regard to the ap-*  
 2        *plication of Federal and State law to crimes*  
 3        *committed by a child with a disability.*

4                *“(B) An agency reporting a crime commit-*  
 5        *ted by a child with a disability shall ensure that*  
 6        *copies of the special education and disciplinary*  
 7        *records of the child are transmitted for consider-*  
 8        *ation by the appropriate authorities to whom it*  
 9        *reports the crime.*

10              *“(10) DEFINITIONS.—For purposes of this sub-*  
 11        *section, the following definitions apply:*

12              *“(A) CONTROLLED SUBSTANCE.—The term*  
 13        *‘controlled substance’ means a drug or other sub-*  
 14        *stance identified under schedules I, II, III, IV, or*  
 15        *V in section 202(c) of the Controlled Substances*  
 16        *Act (21 U.S.C. 812(c)).*

17              *“(B) ILLEGAL DRUG.—The term ‘illegal*  
 18        *drug’—*

19              *“(i) means a controlled substance; but*

20              *“(ii) does not include such a substance*  
 21        *that is legally possessed or used under the*  
 22        *supervision of a licensed health-care profes-*  
 23        *sional or that is legally possessed or used*  
 24        *under any other authority under that Act*

1                   or under any other provision of Federal  
2                   law.

3                   “(C) *SUBSTANTIAL EVIDENCE.*—The term  
4                   ‘substantial evidence’ means beyond a preponder-  
5                   ance of the evidence.

6                   “(D) *WEAPON.*—The term ‘weapon’ has the  
7                   meaning given the term ‘dangerous weapon’  
8                   under paragraph (2) of the first subsection (g) of  
9                   section 930 of title 18, United States Code.

10                  “(l) *RULE OF CONSTRUCTION.*—Nothing in this part  
11                  shall be construed to restrict or limit the rights, procedures,  
12                  and remedies available under the Constitution, the Ameri-  
13                  cans with Disabilities Act of 1990, title V of the Rehabilita-  
14                  tion Act of 1973, or other Federal laws protecting the rights  
15                  of children with disabilities, except that before the filing of  
16                  a civil action under such laws seeking relief that is also  
17                  available under this part, the procedures under subsections  
18                  (f) and (g) shall be exhausted to the same extent as would  
19                  be required had the action been brought under this part.

20                  “(m) *TRANSFER OF PARENTAL RIGHTS AT AGE OF*  
21                  *MAJORITY.*—

22                  “(1) *IN GENERAL.*—A State that receives  
23                  amounts from a grant under this part may provide  
24                  that, when a child with a disability reaches the age  
25                  of majority under State law (except for a child with



1       *a disability who has been determined to be incom-*  
2       *petent under State law)—*

3               *“(A) the public agency shall provide any*  
4               *notice required by this section to both the indi-*  
5               *vidual and the parents;*

6               *“(B) all other rights accorded to parents*  
7               *under this part transfer to the child;*

8               *“(C) the agency shall notify the individual*  
9               *and the parents of the transfer of rights; and*

10              *“(D) all rights accorded to parents under*  
11              *this part transfer to children who are incarcer-*  
12              *ated in an adult or juvenile Federal, State, or*  
13              *local correctional institution.*

14              *“(2) SPECIAL RULE.—If, under State law, a*  
15              *child with a disability who has reached the age of*  
16              *majority under State law, who has not been deter-*  
17              *mined to be incompetent, but who is determined not*  
18              *to have the ability to provide informed consent with*  
19              *respect to the educational program of the child, the*  
20              *State shall establish procedures for appointing the*  
21              *parent of the child, or if the parent is not available,*  
22              *another appropriate individual, to represent the edu-*  
23              *cational interests of the child throughout the period of*  
24              *eligibility of the child under this part.*

1 **“SEC. 616. WITHHOLDING AND JUDICIAL REVIEW.**

2 *(a) WITHHOLDING OF PAYMENTS.—*

3 *“(1) IN GENERAL.—Whenever the Secretary,*  
4 *after reasonable notice and opportunity for hearing to*  
5 *the State educational agency involved (and to any*  
6 *local educational agency or State agency affected by*  
7 *any failure described in subparagraph (B)), finds—*

8 *“(A) that there has been a failure by the*  
9 *State to comply substantially with any provision*  
10 *of this part; or*

11 *“(B) that there is a failure to comply with*  
12 *any condition of a local educational agency’s or*  
13 *State agency’s eligibility under this part, includ-*  
14 *ing the terms of any agreement to achieve com-*  
15 *pliance with this part within the timelines speci-*  
16 *fied in the agreement;*

17 *the Secretary shall, after notifying the State edu-*  
18 *cational agency, withhold, in whole or in part, any*  
19 *further payments to the State under this part, or refer*  
20 *the matter for appropriate enforcement action, which*  
21 *may include referral to the Department of Justice.*

22 *“(2) NATURE OF WITHHOLDING.—If the Sec-*  
23 *retary withholds further payments under paragraph*  
24 *(1), the Secretary may determine that such withhold-*  
25 *ing will be limited to programs or projects, or por-*  
26 *tions thereof, affected by the failure, or that the State*

1        *educational agency shall not make further payments*  
2        *under this part to specified local educational agencies*  
3        *or State agencies affected by the failure. Until the*  
4        *Secretary is satisfied that there is no longer any fail-*  
5        *ure to comply with the provisions of this part, as*  
6        *specified in subparagraph (A) or (B) of paragraph*  
7        *(1), payments to the State under this part shall be*  
8        *withheld in whole or in part, or payments by the*  
9        *State educational agency under this part shall be lim-*  
10       *ited to local educational agencies and State agencies*  
11       *whose actions did not cause or were not involved in*  
12       *the failure, as the case may be. Any State educational*  
13       *agency, State agency, or local educational agency that*  
14       *has received notice under paragraph (1) shall, by*  
15       *means of a public notice, take such measures as may*  
16       *be necessary to bring the pendency of an action pur-*  
17       *suant to this subsection to the attention of the public*  
18       *within the jurisdiction of such agency.*

19       *“(b) JUDICIAL REVIEW.—*

20                *“(1) IN GENERAL.—If any State is dissatisfied*  
21        *with the Secretary’s final action with respect to the*  
22        *eligibility of the State under section 612, such State*  
23        *may, not later than 60 days after notice of such ac-*  
24        *tion, file with the United States court of appeals for*  
25        *the circuit in which such State is located a petition*

1     *for review of that action. A copy of the petition shall*  
2     *be forthwith transmitted by the clerk of the court to*  
3     *the Secretary. The Secretary thereupon shall file in*  
4     *the court the record of the proceedings upon which the*  
5     *Secretary's action was based, as provided in section*  
6     *2112 of title 28, United States Code.*

7             “(2) *JURISDICTION; REVIEW BY UNITED STATES*  
8     *SUPREME COURT.—Upon the filing of such petition,*  
9     *the court shall have jurisdiction to affirm the action*  
10    *of the Secretary or to set it aside, in whole or in part.*  
11    *The judgment of the court shall be subject to review*  
12    *by the Supreme Court of the United States upon cer-*  
13    *tiorari or certification as provided in section 1254 of*  
14    *title 28, United States Code.*

15            “(3) *STANDARD OF REVIEW.—The findings of*  
16    *fact by the Secretary, if supported by substantial evi-*  
17    *dence, shall be conclusive, but the court, for good*  
18    *cause shown, may remand the case to the Secretary*  
19    *to take further evidence, and the Secretary may there-*  
20    *upon make new or modified findings of fact and may*  
21    *modify the Secretary's previous action, and shall file*  
22    *in the court the record of the further proceedings.*  
23    *Such new or modified findings of fact shall likewise*  
24    *be conclusive if supported by substantial evidence.*

1       “(c) *DIVIDED STATE AGENCY RESPONSIBILITY.*—For  
2 *purposes of this section, where responsibility for ensuring*  
3 *that the requirements of this part are met with respect to*  
4 *children with disabilities who are convicted as adults under*  
5 *State law and incarcerated in adult prisons is assigned to*  
6 *a public agency other than the State educational agency*  
7 *pursuant to section 612(a)(11)(C), the Secretary, in in-*  
8 *stances where the Secretary finds that the failure to comply*  
9 *substantially with the provisions of this part are related*  
10 *to a failure by the public agency, shall take appropriate*  
11 *corrective action to ensure compliance with this part, ex-*  
12 *cept—*

13               “(1) *any reduction or withholding of payments*  
14 *to the State is proportionate to the total funds allotted*  
15 *under section 611 to the State as the number of eligi-*  
16 *ble children with disabilities in adult prisons under*  
17 *the supervision of the other public agency is propor-*  
18 *tionate to the number of eligible individuals with dis-*  
19 *abilities in the State under the supervision of the*  
20 *State educational agency; and*

21               “(2) *any withholding of funds under paragraph*  
22 *(1) shall be limited to the specific agency responsible*  
23 *for the failure to comply with this part.*

1 **“SEC. 617. ADMINISTRATION.**

2       “(a) *RESPONSIBILITIES OF SECRETARY.*—In carrying  
3 out this part, the Secretary shall—

4               “(1) *cooperate with, and (directly or by grant or*  
5               *contract) furnish technical assistance necessary to, the*  
6               *State in matters relating to—*

7                       “(A) *the education of children with disabil-*  
8                       *ities; and*

9                       “(B) *carrying out this part; and*

10               “(2) *provide short-term training programs and*  
11               *institutes.*

12       “(b) *RULES AND REGULATIONS.*—In carrying out the  
13 provisions of this part, the Secretary shall issue regulations  
14 under this Act only to the extent that such regulations are  
15 necessary to ensure that there is compliance with the spe-  
16 cific requirements of this Act.

17       “(c) *CONFIDENTIALITY.*—The Secretary shall take ap-  
18 propriate action, in accordance with the provisions of sec-  
19 tion 444 of the General Education Provisions Act (20  
20 U.S.C. 1232g), to assure the protection of the confidentiality  
21 of any personally identifiable data, information, and  
22 records collected or maintained by the Secretary and by  
23 State and local educational agencies pursuant to the provi-  
24 sions of this part.

25       “(d) *PERSONNEL.*—The Secretary is authorized to hire  
26 qualified personnel necessary to carry out the Secretary’s

1 *duties under subsection (a) and under sections 618, 661 and*  
 2 *673 (or their predecessor authorities through October 1,*  
 3 *1997) without regard to the provisions of title 5, United*  
 4 *States Code, relating to appointments in the competitive*  
 5 *service and without regard to chapter 51 and subchapter*  
 6 *III of chapter 53 of such title relating to classification and*  
 7 *general schedule pay rates, except that no more than twenty*  
 8 *such personnel shall be employed at any time.*

9 **“SEC. 618. PROGRAM INFORMATION.**

10       “(a) *IN GENERAL.*—*Each State that receives assist-*  
 11 *ance under this part, and the Secretary of the Interior, shall*  
 12 *provide data each year to the Secretary—*

13               “(1)(A) *on—*

14                       “(i) *the number of children with disabil-*  
 15 *ities, by race, ethnicity, and disability category,*  
 16 *who are receiving a free appropriate public edu-*  
 17 *cation;*

18                       “(ii) *the number of children with disabil-*  
 19 *ities, by race and ethnicity, who are receiving*  
 20 *early intervention services;*

21                       “(iii) *the number of children with disabil-*  
 22 *ities, by race, ethnicity, and disability category,*  
 23 *who are participating in regular education;*

24                       “(iv) *the number of children with disabil-*  
 25 *ities, by race, ethnicity, and disability category,*

1       *who are in separate classes, separate schools or*  
2       *facilities, or public or private residential facili-*  
3       *ties;*

4               *“(v) the number of children with disabil-*  
5       *ities, by race, ethnicity, and disability category,*  
6       *who, for each year of age from age 14 to 21,*  
7       *stopped receiving special education and related*  
8       *services because of program completion or other*  
9       *reasons and the reasons why those children*  
10       *stopped receiving special education and related*  
11       *services;*

12              *“(vi) the number of children with disabil-*  
13       *ities, by race and ethnicity, who, from birth*  
14       *through age two, stopped receiving early inter-*  
15       *vention services because of program completion*  
16       *or for other reasons; and*

17              *“(vii)(I) the number of children with dis-*  
18       *abilities, by race, ethnicity, and disability cat-*  
19       *egory, who under subparagraphs (A)(ii) and (B)*  
20       *of section 615(k)(1), are removed to an interim*  
21       *alternative educational setting;*

22              *“(II) the acts or items precipitating those*  
23       *removals; and*



1                   “(III) the number of children with disabili-  
 2                   ties who are subject to long-term suspensions or  
 3                   expulsions; and

4                   “(B) on the number of infants and toddlers, by  
 5                   race and ethnicity, who are at risk of having substan-  
 6                   tial developmental delays (as described in section  
 7                   632), and who are receiving early intervention serv-  
 8                   ices under part C; and

9                   “(2) on any other information that may be re-  
 10                  quired by the Secretary.

11                  “(b) *SAMPLING.*—The Secretary may permit States  
 12                  and the Secretary of the Interior to obtain the data de-  
 13                  scribed in subsection (a) through sampling.

14                  “(c) *DISPROPORTIONALITY.*—

15                  “(1) *IN GENERAL.*—Each State that receives as-  
 16                  sistance under this part, and the Secretary of the In-  
 17                  terior, shall provide for the collection and examina-  
 18                  tion of data to determine if significant  
 19                  disproportionality based on race is occurring in the  
 20                  State with respect to—

21                  “(A) the identification of children as chil-  
 22                  dren with disabilities, including the identifica-  
 23                  tion of children as children with disabilities in  
 24                  accordance with a particular impairment de-  
 25                  scribed in section 602(3); and

1           “(B) the placement in particular edu-  
2           cational settings of such children.

3           “(2) *REVIEW AND REVISION OF POLICIES, PRAC-*  
4           *TICES, AND PROCEDURES.*—In the case of a deter-  
5           mination of significant disproportionality with re-  
6           spect to the identification of children as children with  
7           disabilities, or the placement in particular edu-  
8           cational settings of such children, in accordance with  
9           paragraph (1), the State or the Secretary of the Inte-  
10          rior, as the case may be, shall provide for the review  
11          and, if appropriate, revision of the policies, proce-  
12          dures, and practices used in such identification or  
13          placement to ensure that such policies, procedures,  
14          and practices comply with the requirements of this  
15          Act.

16   **“SEC. 619. PRESCHOOL GRANTS.**

17          “(a) *IN GENERAL.*—The Secretary shall provide grants  
18          under this section to assist States to provide special edu-  
19          cation and related services, in accordance with this part—

20               “(1) to children with disabilities aged 3 to 5, in-  
21          clusive; and

22               “(2) at the State’s discretion, to 2-year-old chil-  
23          dren with disabilities who will turn 3 during the  
24          school year.

1       “(b) *ELIGIBILITY.*—A State shall be eligible for a grant  
2   under this section if such State—

3               “(1) *is eligible under section 612 to receive a*  
4   *grant under this part; and*

5               “(2) *makes a free appropriate public education*  
6   *available to all children with disabilities, aged 3*  
7   *through 5, residing in the State.*

8       “(c) *ALLOCATIONS TO STATES.*—

9               “(1) *IN GENERAL.*—After reserving funds for  
10   studies and evaluations under section 674(e), the Sec-  
11   retary shall allocate the remaining amount among the  
12   States in accordance with paragraph (2) or (3), as  
13   the case may be.

14              “(2) *INCREASE IN FUNDS.*—If the amount avail-  
15   able for allocations to States under paragraph (1) is  
16   equal to or greater than the amount allocated to the  
17   States under this section for the preceding fiscal year,  
18   those allocations shall be calculated as follows:

19                      “(A)(i) *Except as provided in subparagraph*  
20                      *(B), the Secretary shall—*

21                              “(I) *allocate to each State the amount*  
22                              *it received for fiscal year 1997;*

23                              “(II) *allocate 85 percent of any re-*  
24                              *maining funds to States on the basis of*

1           *their relative populations of children aged 3*  
2           *through 5; and*

3           *“(III) allocate 15 percent of those re-*  
4           *maining funds to States on the basis of*  
5           *their relative populations of all children*  
6           *aged 3 through 5 who are living in poverty.*

7           *“(ii) For the purpose of making grants*  
8           *under this paragraph, the Secretary shall use the*  
9           *most recent population data, including data on*  
10          *children living in poverty, that are available and*  
11          *satisfactory to the Secretary.*

12          *“(B) Notwithstanding subparagraph (A),*  
13          *allocations under this paragraph shall be subject*  
14          *to the following:*

15                *“(i) No State’s allocation shall be less*  
16                *than its allocation for the preceding fiscal*  
17                *year.*

18                *“(ii) No State’s allocation shall be less*  
19                *than the greatest of—*

20                        *“(I) the sum of—*

21                                *“(aa) the amount it received*  
22                                *for fiscal year 1997; and*

23                                *“(bb) one third of one percent*  
24                                *of the amount by which the*  
25                                *amount appropriated under sub-*

1            *section (j) exceeds the amount ap-*  
2            *propriated under this section for*  
3            *fiscal year 1997;*

4            *“(II) the sum of—*

5                    *“(aa) the amount it received*  
6                    *for the preceding fiscal year; and*

7                    *“(bb) that amount multiplied*  
8                    *by the percentage by which the in-*  
9                    *crease in the funds appropriated*  
10                   *from the preceding fiscal year ex-*  
11                   *ceeds 1.5 percent; or*

12            *“(III) the sum of—*

13                   *“(aa) the amount it received*  
14                   *for the preceding fiscal year; and*

15                   *“(bb) that amount multiplied*  
16                   *by 90 percent of the percentage*  
17                   *increase in the amount appro-*  
18                   *priated from the preceding fiscal*  
19                   *year.*

20            *“(iii) Notwithstanding clause (ii), no*  
21            *State’s allocation under this paragraph*  
22            *shall exceed the sum of—*

23                   *“(I) the amount it received for the*  
24                   *preceding fiscal year; and*

1                   “(II) that amount multiplied by  
 2                   the sum of 1.5 percent and the percent-  
 3                   age increase in the amount appro-  
 4                   priated.

5                   “(C) If the amount available for allocations  
 6                   under this paragraph is insufficient to pay those  
 7                   allocations in full, those allocations shall be rat-  
 8                   ably reduced, subject to subparagraph (B)(i).

9                   “(3) *DECREASE IN FUNDS.*—If the amount  
 10                  available for allocations to States under paragraph  
 11                  (1) is less than the amount allocated to the States  
 12                  under this section for the preceding fiscal year, those  
 13                  allocations shall be calculated as follows:

14                  “(A) If the amount available for allocations  
 15                  is greater than the amount allocated to the  
 16                  States for fiscal year 1997, each State shall be  
 17                  allocated the sum of—

18                         “(i) the amount it received for fiscal  
 19                         year 1997; and

20                         “(ii) an amount that bears the same  
 21                         relation to any remaining funds as the in-  
 22                         crease the State received for the preceding  
 23                         fiscal year over fiscal year 1997 bears to the  
 24                         total of all such increases for all States.

1           “(B) *If the amount available for allocations*  
 2           *is equal to or less than the amount allocated to*  
 3           *the States for fiscal year 1997, each State shall*  
 4           *be allocated the amount it received for that year,*  
 5           *ratably reduced, if necessary.*

6           “(4) *OUTLYING AREAS.—The Secretary shall in-*  
 7           *crease the fiscal year 1998 allotment of each outlying*  
 8           *area under section 611 by at least the amount that*  
 9           *that area received under this section for fiscal year*  
 10          *1997.*

11          “(d) *RESERVATION FOR STATE ACTIVITIES.—*

12           “(1) *IN GENERAL.—Each State may retain not*  
 13           *more than the amount described in paragraph (2) for*  
 14           *administration and other State-level activities in ac-*  
 15           *cordance with subsections (e) and (f).*

16           “(2) *AMOUNT DESCRIBED.—For each fiscal year,*  
 17           *the Secretary shall determine and report to the State*  
 18           *educational agency an amount that is 25 percent of*  
 19           *the amount the State received under this section for*  
 20           *fiscal year 1997, cumulatively adjusted by the Sec-*  
 21           *retary for each succeeding fiscal year by the lesser*  
 22           *of—*

23           “(A) *the percentage increase, if any, from*  
 24           *the preceding fiscal year in the State’s allocation*  
 25           *under this section; or*

1                   “(B) the percentage increase, if any, from  
 2                   the preceding fiscal year in the Consumer Price  
 3                   Index For All Urban Consumers published by the  
 4                   Bureau of Labor Statistics of the Department of  
 5                   Labor.

6                   “(e) STATE ADMINISTRATION.—

7                   “(1) IN GENERAL.—For the purpose of admin-  
 8                   istering this section (including the coordination of ac-  
 9                   tivities under this part with, and providing technical  
 10                  assistance to, other programs that provide services to  
 11                  children with disabilities) a State may use not more  
 12                  than 20 percent of the maximum amount it may re-  
 13                  tain under subsection (d) for any fiscal year.

14                  “(2) ADMINISTRATION OF PART C.—Funds de-  
 15                  scribed in paragraph (1) may also be used for the ad-  
 16                  ministration of part C of this Act, if the State edu-  
 17                  cational agency is the lead agency for the State under  
 18                  that part.

19                  “(f) OTHER STATE-LEVEL ACTIVITIES.—Each State  
 20                  shall use any funds it retains under subsection (d) and does  
 21                  not use for administration under subsection (e)—

22                  “(1) for support services (including establishing  
 23                  and implementing the mediation process required by  
 24                  section 615(e)), which may benefit children with dis-  
 25                  abilities younger than 3 or older than 5 as long as



1        *those services also benefit children with disabilities*  
 2        *aged 3 through 5;*

3            *“(2) for direct services for children eligible for*  
 4        *services under this section;*

5            *“(3) to develop a State improvement plan under*  
 6        *subpart 1 of part D;*

7            *“(4) for activities at the State and local levels to*  
 8        *meet the performance goals established by the State*  
 9        *under section 612(a)(16) and to support implementa-*  
 10       *tion of the State improvement plan under subpart 1*  
 11       *of part D if the State receives funds under that sub-*  
 12       *part; or*

13           *“(5) to supplement other funds used to develop*  
 14        *and implement a Statewide coordinated services sys-*  
 15        *tem designed to improve results for children and fam-*  
 16        *ilies, including children with disabilities and their*  
 17        *families, but not to exceed one percent of the amount*  
 18        *received by the State under this section for a fiscal*  
 19        *year.*

20        *“(g) SUBGRANTS TO LOCAL EDUCATIONAL AGEN-*  
 21        *CIES.—*

22           *“(1) SUBGRANTS REQUIRED.—Each State that*  
 23        *receives a grant under this section for any fiscal year*  
 24        *shall distribute any of the grant funds that it does not*  
 25        *reserve under subsection (d) to local educational agen-*

1        *cies in the State that have established their eligibility*  
2        *under section 613, as follows:*

3                “(A) *BASE PAYMENTS.—The State shall*  
4                *first award each agency described in paragraph*  
5                *(1) the amount that agency would have received*  
6                *under this section for fiscal year 1997 if the*  
7                *State had distributed 75 percent of its grant for*  
8                *that year under section 619(c)(3), as then in ef-*  
9                *fect.*

10              “(B) *ALLOCATION OF REMAINING FUNDS.—*  
11              *After making allocations under subparagraph*  
12              *(A), the State shall—*

13                      “(i) *allocate 85 percent of any remain-*  
14                      *ing funds to those agencies on the basis of*  
15                      *the relative numbers of children enrolled in*  
16                      *public and private elementary and second-*  
17                      *ary schools within the agency’s jurisdiction;*  
18                      *and*

19                      “(ii) *allocate 15 percent of those re-*  
20                      *maining funds to those agencies in accord-*  
21                      *ance with their relative numbers of children*  
22                      *living in poverty, as determined by the*  
23                      *State educational agency.*

24              “(2) *REALLOCATION OF FUNDS.—If a State*  
25              *educational agency determines that a local edu-*

1            *cational agency is adequately providing a free*  
2            *appropriate public education to all children with*  
3            *disabilities aged three through five residing in*  
4            *the area served by that agency with State and*  
5            *local funds, the State educational agency may*  
6            *reallocate any portion of the funds under this*  
7            *section that are not needed by that local agency*  
8            *to provide a free appropriate public education to*  
9            *other local educational agencies in the State that*  
10           *are not adequately providing special education*  
11           *and related services to all children with disabil-*  
12           *ities aged three through five residing in the areas*  
13           *they serve.*

14           “(h) *PART C INAPPLICABLE.—Part C of this Act does*  
15           *not apply to any child with a disability receiving a free*  
16           *appropriate public education, in accordance with this part,*  
17           *with funds received under this section.*

18           “(i) *DEFINITION.—For the purpose of this section, the*  
19           *term ‘State’ means each of the 50 States, the District of*  
20           *Columbia, and the Commonwealth of Puerto Rico.*

21           “(j) *AUTHORIZATION OF APPROPRIATIONS.—For the*  
22           *purpose of carrying out this section, there are authorized*  
23           *to be appropriated to the Secretary \$500,000,000 for fiscal*  
24           *year 1998 and such sums as may be necessary for each sub-*  
25           *sequent fiscal year.*

1       **“PART C—INFANTS AND TODDLERS WITH**  
2                               **DISABILITIES**

3       **“SEC. 631. FINDINGS AND POLICY.**

4               “(a) *FINDINGS.—The Congress finds that there is an*  
5 *urgent and substantial need—*

6                       “(1) *to enhance the development of infants and*  
7 *toddlers with disabilities and to minimize their po-*  
8 *tential for developmental delay;*

9                       “(2) *to reduce the educational costs to our soci-*  
10 *ety, including our Nation’s schools, by minimizing*  
11 *the need for special education and related services*  
12 *after infants and toddlers with disabilities reach*  
13 *school age;*

14                      “(3) *to minimize the likelihood of institutional-*  
15 *ization of individuals with disabilities and maximize*  
16 *the potential for their independently living in society;*

17                      “(4) *to enhance the capacity of families to meet*  
18 *the special needs of their infants and toddlers with*  
19 *disabilities; and*

20                      “(5) *to enhance the capacity of State and local*  
21 *agencies and service providers to identify, evaluate,*  
22 *and meet the needs of historically underrepresented*  
23 *populations, particularly minority, low-income,*  
24 *inner-city, and rural populations.*

25               “(b) *POLICY.—It is therefore the policy of the United*  
26 *States to provide financial assistance to States—*

1           “(1) to develop and implement a statewide, com-  
 2           prehensive, coordinated, multidisciplinary, inter-  
 3           agency system that provides early intervention serv-  
 4           ices for infants and toddlers with disabilities and  
 5           their families;

6           “(2) to facilitate the coordination of payment for  
 7           early intervention services from Federal, State, local,  
 8           and private sources (including public and private in-  
 9           surance coverage);

10          “(3) to enhance their capacity to provide quality  
 11          early intervention services and expand and improve  
 12          existing early intervention services being provided to  
 13          infants and toddlers with disabilities and their fami-  
 14          lies; and

15          “(4) to encourage States to expand opportunities  
 16          for children under 3 years of age who would be at risk  
 17          of having substantial developmental delay if they did  
 18          not receive early intervention services.

19   **“SEC. 632. DEFINITIONS.**

20          *“As used in this part:*

21               “(1) *AT-RISK INFANT OR TODDLER.*—The term  
 22               ‘at-risk infant or toddler’ means an individual under  
 23               3 years of age who would be at risk of experiencing  
 24               a substantial developmental delay if early interven-  
 25               tion services were not provided to the individual.

1           “(2) *COUNCIL.*—*The term ‘council’ means a*  
 2           *State interagency coordinating council established*  
 3           *under section 641.*

4           “(3) *DEVELOPMENTAL DELAY.*—*The term ‘devel-*  
 5           *opmental delay’, when used with respect to an indi-*  
 6           *vidual residing in a State, has the meaning given*  
 7           *such term by the State under section 635(a)(1).*

8           “(4) *EARLY INTERVENTION SERVICES.*—*The term*  
 9           *‘early intervention services’ means developmental*  
 10          *services that—*

11                   “(A) *are provided under public supervision;*

12                   “(B) *are provided at no cost except where*  
 13                   *Federal or State law provides for a system of*  
 14                   *payments by families, including a schedule of*  
 15                   *sliding fees;*

16                   “(C) *are designed to meet the developmental*  
 17                   *needs of an infant or toddler with a disability*  
 18                   *in any one or more of the following areas—*

19                           “(i) *physical development;*

20                           “(ii) *cognitive development;*

21                           “(iii) *communication development;*

22                           “(iv) *social or emotional development;*

23                           *or*

24                           “(v) *adaptive development;*

1           “(D) meet the standards of the State in  
2           which they are provided, including the require-  
3           ments of this part;

4           “(E) include—

5               “(i) family training, counseling, and  
6               home visits;

7               “(ii) special instruction;

8               “(iii) speech-language pathology and  
9               audiology services;

10              “(iv) occupational therapy;

11              “(v) physical therapy;

12              “(vi) psychological services;

13              “(vii) service coordination services;

14              “(viii) medical services only for diag-  
15              nostic or evaluation purposes;

16              “(ix) early identification, screening,  
17              and assessment services;

18              “(x) health services necessary to enable  
19              the infant or toddler to benefit from the  
20              other early intervention services;

21              “(xi) social work services;

22              “(xii) vision services;

23              “(xiii) assistive technology devices and  
24              assistive technology services; and

1                   “(xiv) transportation and related costs  
2                   that are necessary to enable an infant or  
3                   toddler and the infant’s or toddler’s family  
4                   to receive another service described in this  
5                   paragraph;

6                   “(F) are provided by qualified personnel,  
7                   including—

8                   “(i) special educators;

9                   “(ii) speech-language pathologists and  
10                  audiologists;

11                  “(iii) occupational therapists;

12                  “(iv) physical therapists;

13                  “(v) psychologists;

14                  “(vi) social workers;

15                  “(vii) nurses;

16                  “(viii) nutritionists;

17                  “(ix) family therapists;

18                  “(x) orientation and mobility special-  
19                  ists; and

20                  “(xi) pediatricians and other physi-  
21                  cians;

22                  “(G) to the maximum extent appropriate,  
23                  are provided in natural environments, including  
24                  the home, and community settings in which chil-  
25                  dren without disabilities participate; and



1           “(H) are provided in conformity with an  
 2           individualized family service plan adopted in  
 3           accordance with section 636.

4           “(5) *INFANT OR TODDLER WITH A DISABILITY*.—  
 5           *The term ‘infant or toddler with a disability’—*

6           “(A) means an individual under 3 years of  
 7           age who needs early intervention services because  
 8           the individual—

9           “(i) is experiencing developmental  
 10          delays, as measured by appropriate diag-  
 11          nostic instruments and procedures in one or  
 12          more of the areas of cognitive development,  
 13          physical development, communication devel-  
 14          opment, social or emotional development,  
 15          and adaptive development; or

16          “(ii) has a diagnosed physical or men-  
 17          tal condition which has a high probability  
 18          of resulting in developmental delay; and

19          “(B) may also include, at a State’s discre-  
 20          tion, at-risk infants and toddlers.

21   **“SEC. 633. GENERAL AUTHORITY.**

22          *“The Secretary shall, in accordance with this part,*  
 23          *make grants to States (from their allocations under section*  
 24          *643) to assist each State to maintain and implement a*  
 25          *statewide, comprehensive, coordinated, multidisciplinary,*

1 *interagency system to provide early intervention services for*  
 2 *infants and toddlers with disabilities and their families.*

3 **“SEC. 634. ELIGIBILITY.**

4 *“In order to be eligible for a grant under section 633,*  
 5 *a State shall demonstrate to the Secretary that the State—*

6 *“(1) has adopted a policy that appropriate early*  
 7 *intervention services are available to all infants and*  
 8 *toddlers with disabilities in the State and their fami-*  
 9 *lies, including Indian infants and toddlers with dis-*  
 10 *abilities and their families residing on a reservation*  
 11 *geographically located in the State; and*

12 *“(2) has in effect a statewide system that meets*  
 13 *the requirements of section 635.*

14 **“SEC. 635. REQUIREMENTS FOR STATEWIDE SYSTEM.**

15 *“(a) IN GENERAL.—A statewide system described in*  
 16 *section 633 shall include, at a minimum, the following com-*  
 17 *ponents:*

18 *“(1) A definition of the term ‘developmental*  
 19 *delay’ that will be used by the State in carrying out*  
 20 *programs under this part.*

21 *“(2) A State policy that is in effect and that en-*  
 22 *sures that appropriate early intervention services are*  
 23 *available to all infants and toddlers with disabilities*  
 24 *and their families, including Indian infants and tod-*

1        *dlers and their families residing on a reservation geo-*  
2        *graphically located in the State.*

3                *“(3) A timely, comprehensive, multidisciplinary*  
4        *evaluation of the functioning of each infant or toddler*  
5        *with a disability in the State, and a family-directed*  
6        *identification of the needs of each family of such an*  
7        *infant or toddler, to appropriately assist in the devel-*  
8        *opment of the infant or toddler.*

9                *“(4) For each infant or toddler with a disability*  
10        *in the State, an individualized family service plan in*  
11        *accordance with section 636, including service coordi-*  
12        *nation services in accordance with such service plan.*

13                *“(5) A comprehensive child find system, consist-*  
14        *ent with part B, including a system for making refer-*  
15        *als to service providers that includes timelines and*  
16        *provides for participation by primary referral*  
17        *sources.*

18                *“(6) A public awareness program focusing on*  
19        *early identification of infants and toddlers with dis-*  
20        *abilities, including the preparation and dissemina-*  
21        *tion by the lead agency designated or established*  
22        *under paragraph (10) to all primary referral sources,*  
23        *especially hospitals and physicians, of information*  
24        *for parents on the availability of early intervention*  
25        *services, and procedures for determining the extent to*

1       *which such sources disseminate such information to*  
2       *parents of infants and toddlers.*

3               “(7) *A central directory which includes informa-*  
4       *tion on early intervention services, resources, and ex-*  
5       *perts available in the State and research and dem-*  
6       *onstration projects being conducted in the State.*

7               “(8) *A comprehensive system of personnel devel-*  
8       *opment, including the training of paraprofessionals*  
9       *and the training of primary referral sources respect-*  
10       *ing the basic components of early intervention serv-*  
11       *ices available in the State, that is consistent with the*  
12       *comprehensive system of personnel development de-*  
13       *scribed in section 612(a)(14) and may include—*

14               “(A) *implementing innovative strategies*  
15       *and activities for the recruitment and retention*  
16       *of early education service providers;*

17               “(B) *promoting the preparation of early*  
18       *intervention providers who are fully and appro-*  
19       *priately qualified to provide early intervention*  
20       *services under this part;*

21               “(C) *training personnel to work in rural*  
22       *and inner-city areas; and*

23               “(D) *training personnel to coordinate tran-*  
24       *sition services for infants and toddlers served*  
25       *under this part from an early intervention pro-*

1           gram under this part to preschool or other ap-  
2           propriate services.

3           “(9) Subject to subsection (b), policies and proce-  
4           dures relating to the establishment and maintenance  
5           of standards to ensure that personnel necessary to  
6           carry out this part are appropriately and adequately  
7           prepared and trained, including—

8                   “(A) the establishment and maintenance of  
9                   standards which are consistent with any State-  
10                  approved or recognized certification, licensing,  
11                  registration, or other comparable requirements  
12                  which apply to the area in which such personnel  
13                  are providing early intervention services; and

14                   “(B) to the extent such standards are not  
15                  based on the highest requirements in the State  
16                  applicable to a specific profession or discipline,  
17                  the steps the State is taking to require the re-  
18                  training or hiring of personnel that meet appro-  
19                  priate professional requirements in the State;

20           except that nothing in this part, including this para-  
21           graph, prohibits the use of paraprofessionals and as-  
22           sistants who are appropriately trained and super-  
23           vised, in accordance with State law, regulations, or  
24           written policy, to assist in the provision of early

1       *intervention services to infants and toddlers with dis-*  
2       *abilities under this part.*

3               “(10) *A single line of responsibility in a lead*  
4       *agency designated or established by the Governor for*  
5       *carrying out—*

6               “(A) *the general administration and super-*  
7       *vision of programs and activities receiving as-*  
8       *sistance under section 633, and the monitoring*  
9       *of programs and activities used by the State to*  
10       *carry out this part, whether or not such pro-*  
11       *grams or activities are receiving assistance made*  
12       *available under section 633, to ensure that the*  
13       *State complies with this part;*

14              “(B) *the identification and coordination of*  
15       *all available resources within the State from*  
16       *Federal, State, local, and private sources;*

17              “(C) *the assignment of financial respon-*  
18       *sibility in accordance with section 637(a)(2) to*  
19       *the appropriate agencies;*

20              “(D) *the development of procedures to en-*  
21       *sure that services are provided to infants and*  
22       *toddlers and their families under this part in a*  
23       *timely manner pending the resolution of any*  
24       *disputes among public agencies or service pro-*  
25       *viders;*

1           “(E) the resolution of intra- and inter-  
2           agency disputes; and

3           “(F) the entry into formal interagency  
4           agreements that define the financial responsibil-  
5           ity of each agency for paying for early interven-  
6           tion services (consistent with State law) and pro-  
7           cedures for resolving disputes and that include  
8           all additional components necessary to ensure  
9           meaningful cooperation and coordination.

10          “(11) A policy pertaining to the contracting or  
11          making of other arrangements with service providers  
12          to provide early intervention services in the State,  
13          consistent with the provisions of this part, including  
14          the contents of the application used and the condi-  
15          tions of the contract or other arrangements.

16          “(12) A procedure for securing timely reimburse-  
17          ments of funds used under this part in accordance  
18          with section 640(a).

19          “(13) Procedural safeguards with respect to pro-  
20          grams under this part, as required by section 639.

21          “(14) A system for compiling data requested by  
22          the Secretary under section 618 that relates to this  
23          part.

24          “(15) A State interagency coordinating council  
25          that meets the requirements of section 641.

1           “(16) *Policies and procedures to ensure that,*  
 2           *consistent with section 636(d)(5)—*

3                   “(A) *to the maximum extent appropriate,*  
 4                   *early intervention services are provided in natu-*  
 5                   *ral environments; and*

6                   “(B) *the provision of early intervention*  
 7                   *services for any infant or toddler occurs in a set-*  
 8                   *ting other than a natural environment only*  
 9                   *when early intervention cannot be achieved satis-*  
 10                   *factorily for the infant or toddler in a natural*  
 11                   *environment.*

12           “(b) *POLICY.—In implementing subsection (a)(9), a*  
 13           *State may adopt a policy that includes making ongoing*  
 14           *good-faith efforts to recruit and hire appropriately and ade-*  
 15           *quately trained personnel to provide early intervention*  
 16           *services to infants and toddlers with disabilities, including,*  
 17           *in a geographic area of the State where there is a shortage*  
 18           *of such personnel, the most qualified individuals available*  
 19           *who are making satisfactory progress toward completing*  
 20           *applicable course work necessary to meet the standards de-*  
 21           *scribed in subsection (a)(9) within 3 years.*

22           **“SEC. 636. INDIVIDUALIZED FAMILY SERVICE PLAN.**

23                   “(a) *ASSESSMENT AND PROGRAM DEVELOPMENT.—A*  
 24           *statewide system described in section 633 shall provide, at*



1 *a minimum, for each infant or toddler with a disability,*  
2 *and the infant's or toddler's family, to receive—*

3           “(1) *a multidisciplinary assessment of the*  
4 *unique strengths and needs of the infant or toddler*  
5 *and the identification of services appropriate to meet*  
6 *such needs;*

7           “(2) *a family-directed assessment of the re-*  
8 *sources, priorities, and concerns of the family and the*  
9 *identification of the supports and services necessary*  
10 *to enhance the family's capacity to meet the devel-*  
11 *opmental needs of the infant or toddler; and*

12           “(3) *a written individualized family service plan*  
13 *developed by a multidisciplinary team, including the*  
14 *parents, as required by subsection (e).*

15       “(b) *PERIODIC REVIEW.—The individualized family*  
16 *service plan shall be evaluated once a year and the family*  
17 *shall be provided a review of the plan at 6-month intervals*  
18 *(or more often where appropriate based on infant or toddler*  
19 *and family needs).*

20       “(c) *PROMPTNESS AFTER ASSESSMENT.—The individ-*  
21 *ualized family service plan shall be developed within a rea-*  
22 *sonable time after the assessment required by subsection*  
23 *(a)(1) is completed. With the parents' consent, early inter-*  
24 *vention services may commence prior to the completion of*  
25 *the assessment.*

1       “(d) *CONTENT OF PLAN.*—*The individualized family*  
2 *service plan shall be in writing and contain—*

3               “(1) *a statement of the infant’s or toddler’s*  
4 *present levels of physical development, cognitive devel-*  
5 *opment, communication development, social or emo-*  
6 *tional development, and adaptive development, based*  
7 *on objective criteria;*

8               “(2) *a statement of the family’s resources, prior-*  
9 *ities, and concerns relating to enhancing the develop-*  
10 *ment of the family’s infant or toddler with a disabil-*  
11 *ity;*

12              “(3) *a statement of the major outcomes expected*  
13 *to be achieved for the infant or toddler and the fam-*  
14 *ily, and the criteria, procedures, and timelines used*  
15 *to determine the degree to which progress toward*  
16 *achieving the outcomes is being made and whether*  
17 *modifications or revisions of the outcomes or services*  
18 *are necessary;*

19              “(4) *a statement of specific early intervention*  
20 *services necessary to meet the unique needs of the in-*  
21 *fant or toddler and the family, including the fre-*  
22 *quency, intensity, and method of delivering services;*

23              “(5) *a statement of the natural environments in*  
24 *which early intervention services shall appropriately*  
25 *be provided, including a justification of the extent, if*

1       *any, to which the services will not be provided in a*  
2       *natural environment;*

3               *“(6) the projected dates for initiation of services*  
4       *and the anticipated duration of the services;*

5               *“(7) the identification of the service coordinator*  
6       *from the profession most immediately relevant to the*  
7       *infant’s or toddler’s or family’s needs (or who is oth-*  
8       *erwise qualified to carry out all applicable respon-*  
9       *sibilities under this part) who will be responsible for*  
10       *the implementation of the plan and coordination with*  
11       *other agencies and persons; and*

12               *“(8) the steps to be taken to support the transi-*  
13       *tion of the toddler with a disability to preschool or*  
14       *other appropriate services.*

15       *“(e) PARENTAL CONSENT.—The contents of the indi-*  
16       *vidualized family service plan shall be fully explained to*  
17       *the parents and informed written consent from the parents*  
18       *shall be obtained prior to the provision of early intervention*  
19       *services described in such plan. If the parents do not pro-*  
20       *vide consent with respect to a particular early intervention*  
21       *service, then the early intervention services to which consent*  
22       *is obtained shall be provided.*

23       **“SEC. 637. STATE APPLICATION AND ASSURANCES.**

24               *“(a) APPLICATION.—A State desiring to receive a*  
25       *grant under section 633 shall submit an application to the*

1 *Secretary at such time and in such manner as the Secretary*  
2 *may reasonably require. The application shall contain—*

3       “(1) *a designation of the lead agency in the*  
4 *State that will be responsible for the administration*  
5 *of funds provided under section 633;*

6       “(2) *a designation of an individual or entity re-*  
7 *sponsible for assigning financial responsibility among*  
8 *appropriate agencies;*

9       “(3) *information demonstrating eligibility of the*  
10 *State under section 634, including—*

11       “(A) *information demonstrating to the Sec-*  
12 *retary’s satisfaction that the State has in effect*  
13 *the statewide system required by section 633;*  
14 *and*

15       “(B) *a description of services to be provided*  
16 *to infants and toddlers with disabilities and*  
17 *their families through the system;*

18       “(4) *if the State provides services to at-risk in-*  
19 *fants and toddlers through the system, a description*  
20 *of such services;*

21       “(5) *a description of the uses for which funds*  
22 *will be expended in accordance with this part;*

23       “(6) *a description of the procedure used to en-*  
24 *sure that resources are made available under this part*  
25 *for all geographic areas within the State;*

1           “(7) a description of State policies and proce-  
2           dures that ensure that, prior to the adoption by the  
3           State of any other policy or procedure necessary to  
4           meet the requirements of this part, there are public  
5           hearings, adequate notice of the hearings, and an op-  
6           portunity for comment available to the general public,  
7           including individuals with disabilities and parents of  
8           infants and toddlers with disabilities;

9           “(8) a description of the policies and procedures  
10          to be used—

11           “(A) to ensure a smooth transition for tod-  
12          dlers receiving early intervention services under  
13          this part to preschool or other appropriate serv-  
14          ices, including a description of how—

15           “(i) the families of such toddlers will  
16          be included in the transition plans required  
17          by subparagraph (C); and

18           “(ii) the lead agency designated or es-  
19          tablished under section 636(a)(10) will—

20           “(I) notify the local educational  
21          agency for the area in which such a  
22          child resides that the child will shortly  
23          reach the age of eligibility for preschool  
24          services under part B, as determined  
25          in accordance with State law;

1           “(II) in the case of a child who  
2           may be eligible for such preschool serv-  
3           ices, with the approval of the family of  
4           the child, convene a conference among  
5           the lead agency, the family, and the  
6           local educational agency at least 90  
7           days (and at the discretion of all such  
8           parties, up to 6 months) before the  
9           child is eligible for the preschool serv-  
10          ices, to discuss any such services that  
11          the child may receive; and

12           “(III) in the case of a child who  
13          may not be eligible for such preschool  
14          services, with the approval of the fam-  
15          ily, make reasonable efforts to convene  
16          a conference among the lead agency,  
17          the family, and providers of other ap-  
18          propriate services for children who are  
19          not eligible for preschool services under  
20          part B, to discuss the appropriate serv-  
21          ices that the child may receive;

22           “(B) to review the child’s program options  
23          for the period from the child’s third birthday  
24          through the remainder of the school year; and

25           “(C) to establish a transition plan; and

1           “(9) such other information and assurances as  
2           the Secretary may reasonably require.

3           “(b) ASSURANCES.—The application described in sub-  
4           section (a)—

5           “(1) shall provide satisfactory assurance that  
6           Federal funds made available under section 643 to the  
7           State will be expended in accordance with this part;

8           “(2) shall contain an assurance that the State  
9           will comply with the requirements of section 640;

10           “(3) shall provide satisfactory assurance that the  
11           control of funds provided under section 643, and title  
12           to property derived from those funds, will be in a  
13           public agency for the uses and purposes provided in  
14           this part and that a public agency will administer  
15           such funds and property;

16           “(4) shall provide for—

17           “(A) making such reports in such form and  
18           containing such information as the Secretary  
19           may require to carry out the Secretary’s func-  
20           tions under this part; and

21           “(B) keeping such records and affording  
22           such access to them as the Secretary may find  
23           necessary to ensure the correctness and verifica-  
24           tion of those reports and proper disbursement of  
25           Federal funds under this part;

1           “(5) provide satisfactory assurance that Federal  
2       funds made available under section 643 to the  
3       State—

4           “(A) will not be commingled with State  
5       funds; and

6           “(B) will be used so as to supplement the  
7       level of State and local funds expended for in-  
8       fants and toddlers with disabilities and their  
9       families and in no case to supplant those State  
10      and local funds;

11          “(6) shall provide satisfactory assurance that  
12      such fiscal control and fund accounting procedures  
13      will be adopted as may be necessary to ensure proper  
14      disbursement of, and accounting for, Federal funds  
15      paid under section 643 to the State;

16          “(7) shall provide satisfactory assurance that  
17      policies and procedures have been adopted to ensure  
18      meaningful involvement of underserved groups, in-  
19      cluding minority, low-income, and rural families, in  
20      the planning and implementation of all the require-  
21      ments of this part; and

22          “(8) shall contain such other information and  
23      assurances as the Secretary may reasonably require  
24      by regulation.



1       “(c) *STANDARD FOR DISAPPROVAL OF APPLICATION.*—  
 2   *The Secretary may not disapprove such an application un-*  
 3   *less the Secretary determines, after notice and opportunity*  
 4   *for a hearing, that the application fails to comply with the*  
 5   *requirements of this section.*

6       “(d) *SUBSEQUENT STATE APPLICATION.*—*If a State*  
 7   *has on file with the Secretary a policy, procedure, or assur-*  
 8   *ance that demonstrates that the State meets a requirement*  
 9   *of this section, including any policy or procedure filed*  
 10   *under part H (as in effect before July 1, 1998), the Sec-*  
 11   *retary shall consider the State to have met the requirement*  
 12   *for purposes of receiving a grant under this part.*

13       “(e) *MODIFICATION OF APPLICATION.*—*An application*  
 14   *submitted by a State in accordance with this section shall*  
 15   *remain in effect until the State submits to the Secretary*  
 16   *such modifications as the State determines necessary. This*  
 17   *section shall apply to a modification of an application to*  
 18   *the same extent and in the same manner as this section*  
 19   *applies to the original application.*

20       “(f) *MODIFICATIONS REQUIRED BY THE SEC-*  
 21   *RETARY.*—*The Secretary may require a State to modify its*  
 22   *application under this section, but only to the extent nec-*  
 23   *essary to ensure the State’s compliance with this part, if—*

24               “(1) *an amendment is made to this Act, or a*  
 25       *Federal regulation issued under this Act;*

1           “(2) a new interpretation of this Act is made by  
2       a Federal court or the State’s highest court; or

3           “(3) an official finding of noncompliance with  
4       Federal law or regulations is made with respect to the  
5       State.

6   **“SEC. 638. USES OF FUNDS.**

7       *“In addition to using funds provided under section*  
8 *633 to maintain and implement the statewide system re-*  
9 *quired by such section, a State may use such funds—*

10           *“(1) for direct early intervention services for in-*  
11 *fants and toddlers with disabilities, and their fami-*  
12 *lies, under this part that are not otherwise funded*  
13 *through other public or private sources;*

14           *“(2) to expand and improve on services for in-*  
15 *fants and toddlers and their families under this part*  
16 *that are otherwise available;*

17           *“(3) to provide a free appropriate public edu-*  
18 *cation, in accordance with part B, to children with*  
19 *disabilities from their third birthday to the beginning*  
20 *of the following school year; and*

21           *“(4) in any State that does not provide services*  
22 *for at-risk infants and toddlers under section*  
23 *637(a)(4), to strengthen the statewide system by initi-*  
24 *ating, expanding, or improving collaborative efforts*  
25 *related to at-risk infants and toddlers, including es-*

1       *tablishing linkages with appropriate public or private*  
2       *community-based organizations, services, and person-*  
3       *nel for the purposes of—*

4               “(A) *identifying and evaluating at-risk in-*  
5               *fant and toddlers;*

6               “(B) *making referrals of the infants and*  
7               *toddlers identified and evaluated under subpara-*  
8               *graph (A); and*

9               “(C) *conducting periodic follow-up on each*  
10              *such referral to determine if the status of the in-*  
11              *fant or toddler involved has changed with respect*  
12              *to the eligibility of the infant or toddler for serv-*  
13              *ices under this part.*

14   **“SEC. 639. PROCEDURAL SAFEGUARDS.**

15       “(a) *MINIMUM PROCEDURES.—The procedural safe-*  
16       *guards required to be included in a statewide system under*  
17       *section 635(a)(13) shall provide, at a minimum, the follow-*  
18       *ing:*

19              “(1) *The timely administrative resolution of*  
20              *complaints by parents. Any party aggrieved by the*  
21              *findings and decision regarding an administrative*  
22              *complaint shall have the right to bring a civil action*  
23              *with respect to the complaint in any State court of*  
24              *competent jurisdiction or in a district court of the*  
25              *United States without regard to the amount in con-*

1        *troversty. In any action brought under this paragraph,*  
2        *the court shall receive the records of the administra-*  
3        *tive proceedings, shall hear additional evidence at the*  
4        *request of a party, and, basing its decision on the*  
5        *preponderance of the evidence, shall grant such relief*  
6        *as the court determines is appropriate.*

7                *“(2) The right to confidentiality of personally*  
8        *identifiable information, including the right of par-*  
9        *ents to written notice of and written consent to the*  
10       *exchange of such information among agencies consist-*  
11       *ent with Federal and State law.*

12               *“(3) The right of the parents to determine wheth-*  
13       *er they, their infant or toddler, or other family mem-*  
14       *bers will accept or decline any early intervention*  
15       *service under this part in accordance with State law*  
16       *without jeopardizing other early intervention services*  
17       *under this part.*

18               *“(4) The opportunity for parents to examine*  
19       *records relating to assessment, screening, eligibility*  
20       *determinations, and the development and implemen-*  
21       *tation of the individualized family service plan.*

22               *“(5) Procedures to protect the rights of the infant*  
23       *or toddler whenever the parents of the child are not*  
24       *known or cannot be found or the child is a ward of*  
25       *the State, including the assignment of an individual*

1       *(who shall not be an employee of the State lead agen-*  
2       *cy, or other State agency, and who shall not be any*  
3       *person, or any employee of a person, providing early*  
4       *intervention services to the infant or toddler or any*  
5       *family member of the infant or toddler) to act as a*  
6       *surrogate for the parents.*

7               “(6) Written prior notice to the parents of the  
8       *infant or toddler with a disability whenever the State*  
9       *agency or service provider proposes to initiate or*  
10       *change or refuses to initiate or change the identifica-*  
11       *tion, evaluation, or placement of the infant or toddler*  
12       *with a disability, or the provision of appropriate*  
13       *early intervention services to the infant or toddler.*

14               “(7) Procedures designed to ensure that the no-  
15       *tice required by paragraph (6) fully informs the par-*  
16       *ents, in the parents’ native language, unless it clearly*  
17       *is not feasible to do so, of all procedures available*  
18       *pursuant to this section.*

19               “(8) The right of parents to use mediation in ac-  
20       *cordance with section 615(e), except that—*

21                       “(A) any reference in the section to a State  
22       *educational agency shall be considered to be a*  
23       *reference to a State’s lead agency established or*  
24       *designated under section 635(a)(10);*

1           “(B) any reference in the section to a local  
 2           educational agency shall be considered to be a  
 3           reference to a local service provider or the State’s  
 4           lead agency under this part, as the case may be;  
 5           and

6           “(C) any reference in the section to the pro-  
 7           vision of free appropriate public education to  
 8           children with disabilities shall be considered to  
 9           be a reference to the provision of appropriate  
 10          early intervention services to infants and tod-  
 11          dlers with disabilities.

12          “(b) *SERVICES DURING PENDENCY OF PROCEED-*  
 13 *INGS.—During the pendency of any proceeding or action*  
 14 *involving a complaint by the parents of an infant or toddler*  
 15 *with a disability, unless the State agency and the parents*  
 16 *otherwise agree, the infant or toddler shall continue to re-*  
 17 *ceive the appropriate early intervention services currently*  
 18 *being provided or, if applying for initial services, shall re-*  
 19 *ceive the services not in dispute.*

20          **“SEC. 640. PAYOR OF LAST RESORT.**

21          “(a) *NONSUBSTITUTION.—Funds provided under sec-*  
 22 *tion 643 may not be used to satisfy a financial commitment*  
 23 *for services that would have been paid for from another pub-*  
 24 *lic or private source, including any medical program ad-*  
 25 *ministered by the Secretary of Defense, but for the enact-*

1 *ment of this part, except that whenever considered necessary*  
 2 *to prevent a delay in the receipt of appropriate early inter-*  
 3 *vention services by an infant, toddler, or family in a timely*  
 4 *fashion, funds provided under section 643 may be used to*  
 5 *pay the provider of services pending reimbursement from*  
 6 *the agency that has ultimate responsibility for the payment.*

7       “(b) *REDUCTION OF OTHER BENEFITS*—*Nothing in*  
 8 *this part shall be construed to permit the State to reduce*  
 9 *medical or other assistance available or to alter eligibility*  
 10 *under title V of the Social Security Act (relating to mater-*  
 11 *nal and child health) or title XIX of the Social Security*  
 12 *Act (relating to medicaid for infants or toddlers with dis-*  
 13 *abilities) within the State.*

14 **“SEC. 641. STATE INTERAGENCY COORDINATING COUNCIL.**

15       “(a) *ESTABLISHMENT.*—

16               “(1) *IN GENERAL.*—*A State that desires to re-*  
 17 *ceive financial assistance under this part shall estab-*  
 18 *lish a State interagency coordinating council.*

19               “(2) *APPOINTMENT.*—*The council shall be ap-*  
 20 *pointed by the Governor. In making appointments to*  
 21 *the council, the Governor shall ensure that the mem-*  
 22 *bership of the council reasonably represents the popu-*  
 23 *lation of the State.*

24               “(3) *CHAIRPERSON.*—*The Governor shall des-*  
 25 *ignate a member of the council to serve as the chair-*

1     *person of the council, or shall require the council to*  
2     *so designate such a member. Any member of the coun-*  
3     *cil who is a representative of the lead agency des-*  
4     *ignated under section 635(a)(10) may not serve as the*  
5     *chairperson of the council.*

6     “(b) *COMPOSITION.*—

7         “(1) *IN GENERAL.*—*The council shall be com-*  
8     *posed as follows:*

9         “(A) *PARENTS.*—*At least 20 percent of the*  
10     *members shall be parents of infants or toddlers*  
11     *with disabilities or children with disabilities*  
12     *aged 12 or younger, with knowledge of, or experi-*  
13     *ence with, programs for infants and toddlers*  
14     *with disabilities. At least one such member shall*  
15     *be a parent of an infant or toddler with a dis-*  
16     *ability or a child with a disability aged 6 or*  
17     *younger.*

18         “(B) *SERVICE PROVIDERS.*—*At least 20*  
19     *percent of the members shall be public or private*  
20     *providers of early intervention services.*

21         “(C) *STATE LEGISLATURE.*—*At least one*  
22     *member shall be from the State legislature.*

23         “(D) *PERSONNEL PREPARATION.*—*At least*  
24     *one member shall be involved in personnel prepa-*  
25     *ration.*



1           “(E) *AGENCY FOR EARLY INTERVENTION*  
2           *SERVICES.—At least one member shall be from*  
3           *each of the State agencies involved in the provi-*  
4           *sion of, or payment for, early intervention serv-*  
5           *ices to infants and toddlers with disabilities and*  
6           *their families and shall have sufficient authority*  
7           *to engage in policy planning and implementa-*  
8           *tion on behalf of such agencies.*

9           “(F) *AGENCY FOR PRESCHOOL SERVICES.—*  
10          *At least one member shall be from the State edu-*  
11          *cational agency responsible for preschool services*  
12          *to children with disabilities and shall have suffi-*  
13          *cient authority to engage in policy planning and*  
14          *implementation on behalf of such agency.*

15          “(G) *AGENCY FOR HEALTH INSURANCE.—At*  
16          *least one member shall be from the agency re-*  
17          *sponsible for the State governance of health in-*  
18          *surance.*

19          “(H) *HEAD START AGENCY.—A representa-*  
20          *tive from a Head Start agency or program in*  
21          *the State.*

22          “(I) *CHILD CARE AGENCY.—A representa-*  
23          *tive from a State agency responsible for child*  
24          *care.*

1           “(2) *OTHER MEMBERS.*—*The council may in-*  
2           *clude other members selected by the Governor, includ-*  
3           *ing a representative from the Bureau of Indian Af-*  
4           *fairs, or where there is no BIA-operated or BIA-fund-*  
5           *ed school, from the Indian Health Service or the tribe*  
6           *or tribal council.*

7           “(c) *MEETINGS.*—*The council shall meet at least quar-*  
8           *terly and in such places as it deems necessary. The meetings*  
9           *shall be publicly announced, and, to the extent appropriate,*  
10          *open and accessible to the general public.*

11          “(d) *MANAGEMENT AUTHORITY.*—*Subject to the ap-*  
12          *proval of the Governor, the council may prepare and ap-*  
13          *prove a budget using funds under this part to conduct hear-*  
14          *ings and forums, to reimburse members of the council for*  
15          *reasonable and necessary expenses for attending council*  
16          *meetings and performing council duties (including child*  
17          *care for parent representatives), to pay compensation to a*  
18          *member of the council if the member is not employed or*  
19          *must forfeit wages from other employment when performing*  
20          *official council business, to hire staff, and to obtain the serv-*  
21          *ices of such professional, technical, and clerical personnel*  
22          *as may be necessary to carry out its functions under this*  
23          *part.*

24          “(e) *FUNCTIONS OF COUNCIL.*—

25                 “(1) *DUTIES.*—*The council shall—*

1           “(A) advise and assist the lead agency des-  
2           ignated or established under section 635(a)(10)  
3           in the performance of the responsibilities set  
4           forth in such section, particularly the identifica-  
5           tion of the sources of fiscal and other support for  
6           services for early intervention programs, assign-  
7           ment of financial responsibility to the appro-  
8           priate agency, and the promotion of the inter-  
9           agency agreements;

10           “(B) advise and assist the lead agency in  
11           the preparation of applications and amendments  
12           thereto;

13           “(C) advise and assist the State educational  
14           agency regarding the transition of toddlers with  
15           disabilities to preschool and other appropriate  
16           services; and

17           “(D) prepare and submit an annual report  
18           to the Governor and to the Secretary on the sta-  
19           tus of early intervention programs for infants  
20           and toddlers with disabilities and their families  
21           operated within the State.

22           “(2) *AUTHORIZED ACTIVITY.*—The council may  
23           advise and assist the lead agency and the State edu-  
24           cational agency regarding the provision of appro-  
25           priate services for children from birth through age 5.

1       *The council may advise appropriate agencies in the*  
2       *State with respect to the integration of services for in-*  
3       *fants and toddlers with disabilities and at-risk in-*  
4       *fants and toddlers and their families, regardless of*  
5       *whether at-risk infants and toddlers are eligible for*  
6       *early intervention services in the State.*

7       “(f) *CONFLICT OF INTEREST.*—No member of the coun-  
8       cil shall cast a vote on any matter that would provide direct  
9       financial benefit to that member or otherwise give the ap-  
10      pearance of a conflict of interest under State law.

11      **“SEC. 642. FEDERAL ADMINISTRATION.**

12       “Sections 616, 617, and 618 shall, to the extent not  
13      inconsistent with this part, apply to the program author-  
14      ized by this part, except that—

15               “(1) any reference in such sections to a State  
16      educational agency shall be considered to be a ref-  
17      erence to a State’s lead agency established or des-  
18      ignated under section 635(a)(10);

19               “(2) any reference in such sections to a local  
20      educational agency, educational service agency, or a  
21      State agency shall be considered to be a reference to  
22      an early intervention service provider under this  
23      part; and

24               “(3) any reference to the education of children  
25      with disabilities or the education of all children with

1        *disabilities shall be considered to be a reference to the*  
 2        *provision of appropriate early intervention services to*  
 3        *infants and toddlers with disabilities.*

4        **“SEC. 643. ALLOCATION OF FUNDS.**

5        *“(a) RESERVATION OF FUNDS FOR OUTLYING*  
 6        *AREAS.—*

7                *“(1) IN GENERAL.—From the sums appropriated*  
 8        *to carry out this part for any fiscal year, the Sec-*  
 9        *retary may reserve up to one percent for payments to*  
 10        *Guam, American Samoa, the Virgin Islands, and the*  
 11        *Commonwealth of the Northern Mariana Islands in*  
 12        *accordance with their respective needs.*

13                *“(2) CONSOLIDATION OF FUNDS.—The provisions*  
 14        *of Public Law 95–134, permitting the consolidation of*  
 15        *grants to the outlying areas, shall not apply to funds*  
 16        *those areas receive under this part.*

17        *“(b) PAYMENTS TO INDIANS.—*

18                *“(1) IN GENERAL.—The Secretary shall, subject*  
 19        *to this subsection, make payments to the Secretary of*  
 20        *the Interior to be distributed to tribes, tribal organi-*  
 21        *zations (as defined under section 4 of the Indian Self-*  
 22        *Determination and Education Assistance Act), or*  
 23        *consortia of the above entities for the coordination of*  
 24        *assistance in the provision of early intervention serv-*  
 25        *ices by the States to infants and toddlers with disabil-*

ities and their families on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of such payment for any fiscal year shall be 1.25 percent of the aggregate of the amount available to all States under this part for such fiscal year.

“(2) *ALLOCATION.*—For each fiscal year, the Secretary of the Interior shall distribute the entire payment received under paragraph (1) by providing to each tribe, tribal organization, or consortium an amount based on the number of infants and toddlers residing on the reservation, as determined annually, divided by the total of such children served by all tribes, tribal organizations, or consortia.

“(3) *INFORMATION.*—To receive a payment under this paragraph, the tribe, tribal organization, or consortium shall submit such information to the Secretary of the Interior as is needed to determine the amounts to be allocated under paragraph (2).

“(4) *USE OF FUNDS.*—The funds received by a tribe, tribal organization, or consortium shall be used to assist States in child-find, screening, and other procedures for the early identification of Indian children under 3 years of age and for parent training. Such funds may also be used to provide early inter-

1      vention services in accordance with this part. Such  
2      activities may be carried out directly or through con-  
3      tracts or cooperative agreements with the BIA, local  
4      educational agencies, and other public or private non-  
5      profit organizations. The tribe, tribal organization, or  
6      consortium is encouraged to involve Indian parents  
7      in the development and implementation of these ac-  
8      tivities. The above entities shall, as appropriate, make  
9      referrals to local, State, or Federal entities for the  
10     provision of services or further diagnosis.

11           “(5) *REPORTS.*—To be eligible to receive a grant  
12     under paragraph (2), a tribe, tribal organization, or  
13     consortium shall make a biennial report to the Sec-  
14     retary of the Interior of activities undertaken under  
15     this subsection, including the number of contracts and  
16     cooperative agreements entered into, the number of  
17     children contacted and receiving services for each  
18     year, and the estimated number of children needing  
19     services during the 2 years following the year in  
20     which the report is made. The Secretary of the Inte-  
21     rior shall include a summary of this information on  
22     a biennial basis to the Secretary of Education along  
23     with such other information as required under section  
24     611(i)(3)(E). The Secretary of Education may require

1        *any additional information from the Secretary of the*  
2        *Interior.*

3                “(6) *PROHIBITED USES OF FUNDS.*—None of the  
4        *funds under this subsection may be used by the Sec-*  
5        *retary of the Interior for administrative purposes, in-*  
6        *cluding child count, and the provision of technical as-*  
7        *sistance.*

8                “(c) *STATE ALLOTMENTS.*—

9                “(1) *IN GENERAL.*—Except as provided in para-  
10       *graphs (2), (3), and (4), from the funds remaining for*  
11       *each fiscal year after the reservation and payments*  
12       *under subsections (a) and (b), the Secretary shall first*  
13       *allot to each State an amount that bears the same*  
14       *ratio to the amount of such remainder as the number*  
15       *of infants and toddlers in the State bears to the num-*  
16       *ber of infants and toddlers in all States.*

17               “(2) *MINIMUM ALLOTMENTS.*—Except as pro-  
18       *vided in paragraphs (3) and (4), no State shall re-*  
19       *ceive an amount under this section for any fiscal year*  
20       *that is less than the greatest of—*

21               “(A) *one-half of one percent of the remain-*  
22       *ing amount described in paragraph (1); or*

23               “(B) *\$500,000.*

24               “(3) *SPECIAL RULE FOR 1998 AND 1999.*—



1           “(A) *IN GENERAL.*—*Except as provided in*  
 2           *paragraph (4), no State may receive an amount*  
 3           *under this section for either fiscal year 1998 or*  
 4           *1999 that is less than the sum of the amounts*  
 5           *such State received for fiscal year 1994 under—*

6                   “(i) *part H (as in effect for such fiscal*  
 7                   *year); and*

8                   “(ii) *subpart 2 of part D of chapter 1*  
 9                   *of title I of the Elementary and Secondary*  
 10                   *Education Act of 1965 (as in effect on the*  
 11                   *day before the date of the enactment of the*  
 12                   *Improving America’s Schools Act of 1994)*  
 13                   *for children with disabilities under 3 years*  
 14                   *of age.*

15           “(B) *EXCEPTION.*—*If, for fiscal year 1998*  
 16           *or 1999, the number of infants and toddlers in*  
 17           *a State, as determined under paragraph (1), is*  
 18           *less than the number of infants and toddlers so*  
 19           *determined for fiscal year 1994, the amount de-*  
 20           *termined under subparagraph (A) for the State*  
 21           *shall be reduced by the same percentage by which*  
 22           *the number of such infants and toddlers so de-*  
 23           *clined.*

24           “(4) *RATABLE REDUCTION.*—

1           “(A) *IN GENERAL.*—If the sums made avail-  
 2           able under this part for any fiscal year are in-  
 3           sufficient to pay the full amounts that all States  
 4           are eligible to receive under this subsection for  
 5           such year, the Secretary shall ratably reduce the  
 6           allocations to such States for such year.

7           “(B) *ADDITIONAL FUNDS.*—If additional  
 8           funds become available for making payments  
 9           under this subsection for a fiscal year, alloca-  
 10          tions that were reduced under subparagraph (A)  
 11          shall be increased on the same basis they were re-  
 12          duced.

13          “(5) *DEFINITIONS.*—For the purpose of this sub-  
 14          section—

15               “(A) the terms ‘infants’ and ‘toddlers’ mean  
 16               children under 3 years of age; and

17               “(B) the term ‘State’ means each of the 50  
 18               States, the District of Columbia, and the Com-  
 19               monwealth of Puerto Rico.

20          “(d) *REALLOTMENT OF FUNDS.*—If a State elects not  
 21          to receive its allotment under subsection (c), the Secretary  
 22          shall realLOT, among the remaining States, amounts from  
 23          such State in accordance with such subsection.

1 **“SEC. 644. FEDERAL INTERAGENCY COORDINATING COUN-**  
2 **CIL.**

3 *“(a) ESTABLISHMENT AND PURPOSE.—*

4 *“(1) IN GENERAL.—The Secretary shall establish*  
5 *a Federal Interagency Coordinating Council in order*  
6 *to—*

7 *“(A) minimize duplication of programs and*  
8 *activities across Federal, State, and local agen-*  
9 *cies, relating to—*

10 *“(i) early intervention services for in-*  
11 *fants and toddlers with disabilities (includ-*  
12 *ing at-risk infants and toddlers) and their*  
13 *families; and*

14 *“(ii) preschool or other appropriate*  
15 *services for children with disabilities;*

16 *“(B) ensure the effective coordination of*  
17 *Federal early intervention and preschool pro-*  
18 *grams and policies across Federal agencies;*

19 *“(C) coordinate the provision of Federal*  
20 *technical assistance and support activities to*  
21 *States;*

22 *“(D) identify gaps in Federal agency pro-*  
23 *grams and services; and*

24 *“(E) identify barriers to Federal inter-*  
25 *agency cooperation.*

1           “(2) *APPOINTMENTS.*—*The council established*  
2           *under paragraph (1) (hereafter in this section referred*  
3           *to as the “Council”)* and the chairperson of the Coun-  
4           *cil shall be appointed by the Secretary in consultation*  
5           *with other appropriate Federal agencies. In making*  
6           *the appointments, the Secretary shall ensure that each*  
7           *member has sufficient authority to engage in policy*  
8           *planning and implementation on behalf of the depart-*  
9           *ment, agency, or program that the member represents.*

10          “(b) *COMPOSITION.*—*The Council shall be composed*  
11          *of—*

12               “(1) *a representative of the Office of Special*  
13               *Education Programs;*

14               “(2) *a representative of the National Institute on*  
15               *Disability and Rehabilitation Research and a rep-*  
16               *resentative of the Office of Educational Research and*  
17               *Improvement;*

18               “(3) *a representative of the Maternal and Child*  
19               *Health Services Block Grant Program;*

20               “(4) *a representative of programs administered*  
21               *under the Developmental Disabilities Assistance and*  
22               *Bill of Rights Act;*

23               “(5) *a representative of the Health Care Financ-*  
24               *ing Administration;*

1           “(6) a representative of the Division of Birth De-  
2       fects and Developmental Disabilities of the Centers for  
3       Disease Control;

4           “(7) a representative of the Social Security Ad-  
5       ministration;

6           “(8) a representative of the special supplemental  
7       nutrition program for women, infants, and children  
8       of the Department of Agriculture;

9           “(9) a representative of the National Institute of  
10      Mental Health;

11          “(10) a representative of the National Institute  
12      of Child Health and Human Development;

13          “(11) a representative of the Bureau of Indian  
14      Affairs of the Department of the Interior;

15          “(12) a representative of the Indian Health  
16      Service;

17          “(13) a representative of the Surgeon General;

18          “(14) a representative of the Department of De-  
19      fense;

20          “(15) a representative of the Children’s Bureau,  
21      and a representative of the Head Start Bureau, of the  
22      Administration for Children and Families;

23          “(16) a representative of the Substance Abuse  
24      and Mental Health Services Administration;

1           “(17) a representative of the Pediatric AIDS  
2       *Health Care Demonstration Program in the Public*  
3       *Health Service;*

4           “(18) parents of children with disabilities age 12  
5       *or under (who shall constitute at least 20 percent of*  
6       *the members of the Council), of whom at least one*  
7       *must have a child with a disability under the age of*  
8       6;

9           “(19) at least 2 representatives of State lead  
10       *agencies for early intervention services to infants and*  
11       *toddlers, one of whom must be a representative of a*  
12       *State educational agency and the other a representa-*  
13       *tive of a non-educational agency;*

14           “(20) other members representing appropriate  
15       *agencies involved in the provision of, or payment for,*  
16       *early intervention services and special education and*  
17       *related services to infants and toddlers with disabil-*  
18       *ities and their families and preschool children with*  
19       *disabilities; and*

20           “(21) other persons appointed by the Secretary.

21       “(c) *MEETINGS.*—*The Council shall meet at least quar-*  
22       *terly and in such places as the Council deems necessary.*  
23       *The meetings shall be publicly announced, and, to the extent*  
24       *appropriate, open and accessible to the general public.*

1       “(d) *FUNCTIONS OF THE COUNCIL.*—*The Council*  
2 *shall—*

3               “(1) *advise and assist the Secretary of Edu-*  
4 *cation, the Secretary of Health and Human Services,*  
5 *the Secretary of Defense, the Secretary of the Interior,*  
6 *the Secretary of Agriculture, and the Commissioner of*  
7 *Social Security in the performance of their respon-*  
8 *sibilities related to serving children from birth*  
9 *through age 5 who are eligible for services under this*  
10 *part or under part B;*

11              “(2) *conduct policy analyses of Federal programs*  
12 *related to the provision of early intervention services*  
13 *and special educational and related services to infants*  
14 *and toddlers with disabilities and their families, and*  
15 *preschool children with disabilities, in order to deter-*  
16 *mine areas of conflict, overlap, duplication, or inap-*  
17 *propriate omission;*

18              “(3) *identify strategies to address issues de-*  
19 *scribed in paragraph (2);*

20              “(4) *develop and recommend joint policy memo-*  
21 *randa concerning effective interagency collaboration,*  
22 *including modifications to regulations, and the elimi-*  
23 *nation of barriers to interagency programs and ac-*  
24 *tivities;*

1           “(5) *coordinate technical assistance and dissemi-*  
2           *nate information on best practices, effective program*  
3           *coordination strategies, and recommendations for im-*  
4           *proved early intervention programming for infants*  
5           *and toddlers with disabilities and their families and*  
6           *preschool children with disabilities; and*

7           “(6) *facilitate activities in support of States’*  
8           *interagency coordination efforts.*

9           “(e) *CONFLICT OF INTEREST.—No member of the*  
10          *Council shall cast a vote on any matter that would provide*  
11          *direct financial benefit to that member or otherwise give*  
12          *the appearance of a conflict of interest under Federal law.*

13          “(f) *FEDERAL ADVISORY COMMITTEE ACT.—The Fed-*  
14          *eral Advisory Committee Act (5 U.S.C. App.) shall not*  
15          *apply to the establishment or operation of the Council.*

16          **“SEC. 645. AUTHORIZATION OF APPROPRIATIONS.**

17          *“For the purpose of carrying out this part, there are*  
18          *authorized to be appropriated \$400,000,000 for fiscal year*  
19          *1998 and such sums as may be necessary for each of the*  
20          *fiscal years 1999 through 2002.*



1    **“PART D—NATIONAL ACTIVITIES TO IMPROVE**  
2    **EDUCATION OF CHILDREN WITH DISABILITIES**  
3    **“Subpart 1—State Program Improvement Grants for**  
4               **Children with Disabilities**

5    **“SEC. 651. FINDINGS AND PURPOSE.**

6           “(a) *FINDINGS.—The Congress finds the following:*

7               “(1) *States are responding with some success to*  
8               *multiple pressures to improve educational and transi-*  
9               *tional services and results for children with disabil-*  
10              *ities in response to growing demands imposed by*  
11              *ever-changing factors, such as demographics, social*  
12              *policies, and labor and economic markets.*

13             “(2) *In order for States to address such demands*  
14             *and to facilitate lasting systemic change that is of*  
15             *benefit to all students, including children with dis-*  
16             *abilities, States must involve local educational agen-*  
17             *cies, parents, individuals with disabilities and their*  
18             *families, teachers and other service providers, and*  
19             *other interested individuals and organizations in car-*  
20             *rying out comprehensive strategies to improve edu-*  
21             *cational results for children with disabilities.*

22             “(3) *Targeted Federal financial resources are*  
23             *needed to assist States, working in partnership with*  
24             *others, to identify and make needed changes to ad-*  
25             *dress the needs of children with disabilities into the*  
26             *next century.*

1           “(4) State educational agencies, in partnership  
2           with local educational agencies and other individuals  
3           and organizations, are in the best position to identify  
4           and design ways to meet emerging and expanding de-  
5           mands to improve education for children with disabili-  
6           ties and to address their special needs.

7           “(5) Research, demonstration, and practice over  
8           the past 20 years in special education and related  
9           disciplines have built a foundation of knowledge on  
10          which State and local systemic-change activities can  
11          now be based.

12          “(6) Such research, demonstration, and practice  
13          in special education and related disciplines have dem-  
14          onstrated that an effective educational system now  
15          and in the future must—

16               “(A) maintain high academic standards  
17               and clear performance goals for children with  
18               disabilities, consistent with the standards and  
19               expectations for all students in the educational  
20               system, and provide for appropriate and effective  
21               strategies and methods to ensure that students  
22               who are children with disabilities have maxi-  
23               mum opportunities to achieve those standards  
24               and goals;

1           “(B) create a system that fully addresses the  
2           needs of all students, including children with  
3           disabilities, by addressing the needs of children  
4           with disabilities in carrying out educational re-  
5           form activities;

6           “(C) clearly define, in measurable terms,  
7           the school and post-school results that children  
8           with disabilities are expected to achieve;

9           “(D) promote service integration, and the  
10          coordination of State and local education, social,  
11          health, mental health, and other services, in ad-  
12          dressing the full range of student needs, particu-  
13          larly the needs of children with disabilities who  
14          require significant levels of support to maximize  
15          their participation and learning in school and  
16          the community;

17          “(E) ensure that children with disabilities  
18          are provided assistance and support in making  
19          transitions as described in section 674(b)(3)(C);

20          “(F) promote comprehensive programs of  
21          professional development to ensure that the per-  
22          sons responsible for the education or a transition  
23          of children with disabilities possess the skills and  
24          knowledge necessary to address the educational  
25          and related needs of those children;

1           “(G) disseminate to teachers and other per-  
2           sonnel serving children with disabilities research-  
3           based knowledge about successful teaching prac-  
4           tices and models and provide technical assistance  
5           to local educational agencies and schools on how  
6           to improve results for children with disabilities;

7           “(H) create school-based disciplinary strate-  
8           gies that will be used to reduce or eliminate the  
9           need to use suspension and expulsion as discipli-  
10          nary options for children with disabilities;

11          “(I) establish placement-neutral funding  
12          formulas and cost-effective strategies for meeting  
13          the needs of children with disabilities; and

14          “(J) involve individuals with disabilities  
15          and parents of children with disabilities in plan-  
16          ning, implementing, and evaluating systemic-  
17          change activities and educational reforms.

18          “(b) *PURPOSE.*—The purpose of this subpart is to as-  
19          sist State educational agencies, and their partners referred  
20          to in section 652(b), in reforming and improving their sys-  
21          tems for providing educational, early intervention, and  
22          transitional services, including their systems for profes-  
23          sional development, technical assistance, and dissemination  
24          of knowledge about best practices, to improve results for  
25          children with disabilities.

1 **“SEC. 652. ELIGIBILITY AND COLLABORATIVE PROCESS.**

2       “(a) *ELIGIBLE APPLICANTS.*—A State educational  
3 agency may apply for a grant under this subpart for a  
4 grant period of not less than 1 year and not more than  
5 5 years.

6       “(b) *PARTNERS.*—

7           “(1) *REQUIRED PARTNERS.*—

8               “(A) *CONTRACTUAL PARTNERS.*—In order  
9 to be considered for a grant under this subpart,  
10 a State educational agency shall establish a  
11 partnership with local educational agencies and  
12 other State agencies involved in, or concerned  
13 with, the education of children with disabilities.

14               “(B) *OTHER PARTNERS.*—In order to be  
15 considered for a grant under this subpart, a  
16 State educational agency shall work in partner-  
17 ship with other persons and organizations in-  
18 volved in, and concerned with, the education of  
19 children with disabilities, including—

20                   “(i) the Governor;

21                   “(ii) parents of children with disabil-  
22 ities;

23                   “(iii) parents of nondisabled children;

24                   “(iv) individuals with disabilities;

25                   “(v) organizations representing indi-  
26 viduals with disabilities and their parents,

1           *such as parent training and information*  
2           *centers;*

3           “(vi) *community-based and other non-*  
4           *profit organizations involved in the edu-*  
5           *cation and employment of individuals with*  
6           *disabilities;*

7           “(vii) *the lead State agency for part C;*

8           “(viii) *general and special education*  
9           *teachers, and early intervention personnel;*

10          “(ix) *the State advisory panel estab-*  
11          *lished under part C;*

12          “(x) *the State interagency coordinating*  
13          *council established under part C; and*

14          “(xi) *institutions of higher education*  
15          *within the State.*

16          “(2) *OPTIONAL PARTNERS.—A partnership*  
17          *under subparagraph (A) or (B) of paragraph (1) may*  
18          *also include—*

19               “(A) *individuals knowledgeable about voca-*  
20               *tional education;*

21               “(B) *the State agency for higher education;*

22               “(C) *the State vocational rehabilitation*  
23               *agency;*

1                   “(D) public agencies with jurisdiction in  
 2                   the areas of health, mental health, social services,  
 3                   and juvenile justice; and

4                   “(E) other individuals.

5   **“SEC. 653. APPLICATIONS.**

6           “(a) *IN GENERAL.*—

7                   “(1) *SUBMISSION.*—A State educational agency  
 8                   that desires to receive a grant under this subpart  
 9                   shall submit to the Secretary an application at such  
 10                  time, in such manner, and including such informa-  
 11                  tion as the Secretary may require.

12                  “(2) *STATE IMPROVEMENT PLAN.*—The applica-  
 13                  tion shall include a State improvement plan that—

14                       “(A) is integrated, to the maximum extent  
 15                       possible, with State plans under the Elementary  
 16                       and Secondary Education Act of 1965 and the  
 17                       Rehabilitation Act of 1973, as appropriate; and

18                       “(B) meets the requirements of this section.

19           “(b) *DETERMINING CHILD AND PROGRAM NEEDS.*—

20                       “(1) *IN GENERAL.*—Each State improvement  
 21                       plan shall identify those critical aspects of early  
 22                       intervention, general education, and special education  
 23                       programs (including professional development, based  
 24                       on an assessment of State and local needs) that must  
 25                       be improved to enable children with disabilities to

1       *meet the goals established by the State under section*  
2       *612(a)(16).*

3               “(2) *REQUIRED ANALYSES.—To meet the re-*  
4       *quirement of paragraph (1), the State improvement*  
5       *plan shall include at least—*

6               “(A) *an analysis of all information, reason-*  
7       *ably available to the State educational agency,*  
8       *on the performance of children with disabilities*  
9       *in the State, including—*

10              “(i) *their performance on State assess-*  
11       *ments and other performance indicators es-*  
12       *tablished for all children, including drop-*  
13       *out rates and graduation rates;*

14              “(ii) *their participation in postsecond-*  
15       *ary education and employment; and*

16              “(iii) *how their performance on the as-*  
17       *sessments and indicators described in clause*  
18       *(i) compares to that of non-disabled chil-*  
19       *dren;*

20              “(B) *an analysis of State and local needs*  
21       *for professional development for personnel to*  
22       *serve children with disabilities that includes, at*  
23       *a minimum—*

24              “(i) *the number of personnel providing*  
25       *special education and related services; and*



1                   “(ii) relevant information on current  
 2                   and anticipated personnel vacancies and  
 3                   shortages (including the number of individ-  
 4                   uals described in clause (i) with temporary  
 5                   certification), and on the extent of certifi-  
 6                   cation or retraining necessary to eliminate  
 7                   such shortages, that is based, to the maxi-  
 8                   mum extent possible, on existing assess-  
 9                   ments of personnel needs;

10                  “(C) an analysis of the major findings of  
 11                  the Secretary’s most recent reviews of State com-  
 12                  pliance, as they relate to improving results for  
 13                  children with disabilities; and

14                  “(D) an analysis of other information, rea-  
 15                  sonably available to the State, on the effective-  
 16                  ness of the State’s systems of early intervention,  
 17                  special education, and general education in  
 18                  meeting the needs of children with disabilities.

19                  “(c) *IMPROVEMENT STRATEGIES.*—Each State im-  
 20                  provement plan shall—

21                   “(1) describe a partnership agreement that—

22                   “(A) specifies—

23                   “(i) the nature and extent of the part-  
 24                   nership among the State educational agen-  
 25                   cy, local educational agencies, and other

1           *State agencies involved in, or concerned*  
2           *with, the education of children with disabil-*  
3           *ities, and the respective roles of each mem-*  
4           *ber of the partnership; and*

5           “(ii) *how such agencies will work in*  
6           *partnership with other persons and organi-*  
7           *zations involved in, and concerned with, the*  
8           *education of children with disabilities, in-*  
9           *cluding the respective roles of each of these*  
10          *persons and organizations; and*

11          “(B) *is in effect for the period of the grant;*

12          “(2) *describe how grant funds will be used in un-*  
13          *dertaking the systemic-change activities, and the*  
14          *amount and nature of funds from any other sources,*  
15          *including part B funds retained for use at the State*  
16          *level under sections 611(f) and 619(d), that will be*  
17          *committed to the systemic-change activities;*

18          “(3) *describe the strategies the State will use to*  
19          *address the needs identified under subsection (b), in-*  
20          *cluding—*

21                 “(A) *how the State will change State poli-*  
22                 *cies and procedures to address systemic barriers*  
23                 *to improving results for children with disabil-*  
24                 *ities;*

1           “(B) how the State will hold local edu-  
2           cational agencies and schools accountable for  
3           educational progress of children with disabilities;

4           “(C) how the State will provide technical  
5           assistance to local educational agencies and  
6           schools to improve results for children with dis-  
7           abilities;

8           “(D) how the State will address the identi-  
9           fied needs for in-service and pre-service prepara-  
10          tion to ensure that all personnel who work with  
11          children with disabilities (including both profes-  
12          sional and paraprofessional personnel who pro-  
13          vide special education, general education, related  
14          services, or early intervention services) have the  
15          skills and knowledge necessary to meet the needs  
16          of children with disabilities, including a descrip-  
17          tion of how—

18               “(i) the State will prepare general and  
19               special education personnel with the content  
20               knowledge and collaborative skills needed to  
21               meet the needs of children with disabilities,  
22               including how the State will work with  
23               other States on common certification cri-  
24               teria;

1           “(ii) the State will prepare profes-  
2           sionals and paraprofessionals in the area of  
3           early intervention with the content knowl-  
4           edge and collaborative skills needed to meet  
5           the needs of infants and toddlers with dis-  
6           abilities;

7           “(iii) the State will work with institu-  
8           tions of higher education and other entities  
9           that (on both a pre-service and an in-service  
10          basis) prepare personnel who work with  
11          children with disabilities to ensure that  
12          those institutions and entities develop the  
13          capacity to support quality professional de-  
14          velopment programs that meet State and  
15          local needs;

16          “(iv) the State will work to develop col-  
17          laborative agreements with other States for  
18          the joint support and development of pro-  
19          grams to prepare personnel for which there  
20          is not sufficient demand within a single  
21          State to justify support or development of  
22          such a program of preparation;

23          “(v) the State will work in collabora-  
24          tion with other States, particularly neigh-  
25          boring States, to address the lack of uni-

1 *formity and reciprocity in the credentialing*  
2 *of teachers and other personnel;*

3 “(vi) the State will enhance the ability  
4 *of teachers and others to use strategies, such*  
5 *as behavioral interventions, to address the*  
6 *conduct of children with disabilities that*  
7 *impedes the learning of children with dis-*  
8 *abilities and others;*

9 “(vii) the State will acquire and dis-  
10 *seminate, to teachers, administrators, school*  
11 *board members, and related services person-*  
12 *nel, significant knowledge derived from edu-*  
13 *cational research and other sources, and*  
14 *how the State will, when appropriate, adopt*  
15 *promising practices, materials, and tech-*  
16 *nology;*

17 “(viii) the State will recruit, prepare,  
18 *and retain qualified personnel, including*  
19 *personnel with disabilities and personnel*  
20 *from groups that are underrepresented in*  
21 *the fields of regular education, special edu-*  
22 *cation, and related services;*

23 “(ix) the plan is integrated, to the  
24 *maximum extent possible, with other profes-*  
25 *sional development plans and activities, in-*

cluding plans and activities developed and  
carried out under other Federal and State  
laws that address personnel recruitment  
and training; and

“(x) the State will provide for the joint  
training of parents and special education,  
related services, and general education per-  
sonnel;

“(E) strategies that will address systemic  
problems identified in Federal compliance re-  
views, including shortages of qualified personnel;

“(F) how the State will disseminate results  
of the local capacity-building and improvement  
projects funded under section 611(f)(4);

“(G) how the State will address improving  
results for children with disabilities in the geo-  
graphic areas of greatest need; and

“(H) how the State will assess, on a regular  
basis, the extent to which the strategies imple-  
mented under this subpart have been effective;  
and

“(4) describe how the improvement strategies de-  
scribed in paragraph (3) will be coordinated with  
public and private sector resources.

“(d) COMPETITIVE AWARDS.—

1           “(1) *IN GENERAL.*—*The Secretary shall make*  
2           *grants under this subpart on a competitive basis.*

3           “(2) *PRIORITY.*—*The Secretary may give prior-*  
4           *ity to applications on the basis of need, as indicated*  
5           *by such information as the findings of Federal com-*  
6           *pliance reviews.*

7           “(e) *PEER REVIEW.*—

8           “(1) *IN GENERAL.*—*The Secretary shall use a*  
9           *panel of experts who are competent, by virtue of their*  
10          *training, expertise, or experience, to evaluate applica-*  
11          *tions under this subpart.*

12          “(2) *COMPOSITION OF PANEL.*—*A majority of a*  
13          *panel described in paragraph (1) shall be composed of*  
14          *individuals who are not employees of the Federal*  
15          *Government.*

16          “(3) *PAYMENT OF FEES AND EXPENSES OF CER-*  
17          *TAIN MEMBERS.*—*The Secretary may use available*  
18          *funds appropriated to carry out this subpart to pay*  
19          *the expenses and fees of panel members who are not*  
20          *employees of the Federal Government.*

21          “(f) *REPORTING PROCEDURES.*—*Each State edu-*  
22          *cational agency that receives a grant under this subpart*  
23          *shall submit performance reports to the Secretary pursuant*  
24          *to a schedule to be determined by the Secretary, but not*  
25          *more frequently than annually. The reports shall describe*

1 *the progress of the State in meeting the performance goals*  
 2 *established under section 612(a)(16), analyze the effective-*  
 3 *ness of the State's strategies in meeting those goals, and*  
 4 *identify any changes in the strategies needed to improve*  
 5 *its performance.*

6 **“SEC. 654. USE OF FUNDS.**

7       “(a) *IN GENERAL.*—

8               “(1) *ACTIVITIES.*—A State educational agency  
 9       *that receives a grant under this subpart may use the*  
 10       *grant to carry out any activities that are described in*  
 11       *the State's application and that are consistent with*  
 12       *the purpose of this subpart.*

13               “(2) *CONTRACTS AND SUBGRANTS.*—Each such  
 14       *State educational agency—*

15                       “(A) *shall, consistent with its partnership*  
 16       *agreement under section 652(b), award contracts*  
 17       *or subgrants to local educational agencies, insti-*  
 18       *tutions of higher education, and parent training*  
 19       *and information centers, as appropriate, to*  
 20       *carry out its State improvement plan under this*  
 21       *subpart; and*

22                       “(B) *may award contracts and subgrants to*  
 23       *other public and private entities, including the*  
 24       *lead agency under part C, to carry out such*  
 25       *plan.*



1       “(b) *USE OF FUNDS FOR PROFESSIONAL DEVELOP-*  
 2 *MENT.—A State educational agency that receives a grant*  
 3 *under this subpart—*

4               “(1) *shall use not less than 75 percent of the*  
 5 *funds it receives under the grant for any fiscal year—*

6                       “(A) *to ensure that there are sufficient regu-*  
 7 *lar education, special education, and related*  
 8 *services personnel who have the skills and knowl-*  
 9 *edge necessary to meet the needs of children with*  
 10 *disabilities and developmental goals of young*  
 11 *children; or*

12                      “(B) *to work with other States on common*  
 13 *certification criteria; or*

14               “(2) *shall use not less than 50 percent of such*  
 15 *funds for such purposes, if the State demonstrates to*  
 16 *the Secretary’s satisfaction that it has the personnel*  
 17 *described in paragraph (1)(A).*

18       “(c) *GRANTS TO OUTLYING AREAS.—Public Law 95–*  
 19 *134, permitting the consolidation of grants to the outlying*  
 20 *areas, shall not apply to funds received under this subpart.*

21       **“SEC. 655. MINIMUM STATE GRANT AMOUNTS.**

22               “(a) *IN GENERAL.—The Secretary shall make a grant*  
 23 *to each State educational agency whose application the Sec-*  
 24 *retary has selected for funding under this subpart in an*  
 25 *amount for each fiscal year that is—*

1           “(1) not less than \$500,000, nor more than  
2           \$2,000,000, in the case of the 50 States, the District  
3           of Columbia, and the Commonwealth of Puerto Rico;  
4           and

5           “(2) not less than \$80,000, in the case of an out-  
6           lying area.

7           “(b) *INFLATION ADJUSTMENT.*—Beginning with fiscal  
8           year 1999, the Secretary may increase the maximum  
9           amount described in subsection (a)(1) to account for infla-  
10          tion.

11          “(c) *FACTORS.*—The Secretary shall set the amount of  
12          each grant under subsection (a) after considering—

13               “(1) the amount of funds available for making  
14          the grants;

15               “(2) the relative population of the State or outly-  
16          ing area; and

17               “(3) the types of activities proposed by the State  
18          or outlying area.

19          **“SEC. 656. AUTHORIZATION OF APPROPRIATIONS.**

20               “*There are authorized to be appropriated to carry out*  
21          *this subpart such sums as may be necessary for each of the*  
22          *fiscal years 1998 through 2002.*

1 ***“Subpart 2—Coordinated Research, Personnel Prepa-***  
2 ***ration, Technical Assistance, Support, and Dis-***  
3 ***semination of Information***

4 ***“SEC. 661. ADMINISTRATIVE PROVISIONS.***

5 *“(a) COMPREHENSIVE PLAN.—*

6 *“(1) IN GENERAL.—The Secretary shall develop*  
7 *and implement a comprehensive plan for activities*  
8 *carried out under this subpart in order to enhance the*  
9 *provision of educational, related, transitional, and*  
10 *early intervention services to children with disabili-*  
11 *ties under parts B and C. The plan shall include*  
12 *mechanisms to address educational, related services,*  
13 *transitional, and early intervention needs identified*  
14 *by State educational agencies in applications submit-*  
15 *ted for State program improvement grants under sub-*  
16 *part 1.*

17 *“(2) PARTICIPANTS IN PLAN DEVELOPMENT.—In*  
18 *developing the plan described in paragraph (1), the*  
19 *Secretary shall consult with—*

20 *“(A) individuals with disabilities;*

21 *“(B) parents of children with disabilities;*

22 *“(C) appropriate professionals; and*

23 *“(D) representatives of State and local edu-*  
24 *cational agencies, private schools, institutions of*  
25 *higher education, other Federal agencies, the Na-*  
26 *tional Council on Disability, and national orga-*

1        *nizations with an interest in, and expertise in,*  
2        *providing services to children with disabilities*  
3        *and their families.*

4        “(3) *PUBLIC COMMENT.*—*The Secretary shall*  
5        *take public comment on the plan.*

6        “(4) *DISTRIBUTION OF FUNDS.*—*In implement-*  
7        *ing the plan, the Secretary shall, to the extent appro-*  
8        *priate, ensure that funds are awarded to recipients*  
9        *under this subpart to carry out activities that benefit,*  
10       *directly or indirectly, children with disabilities of all*  
11       *ages.*

12       “(5) *REPORTS TO CONGRESS.*—*The Secretary*  
13       *shall periodically report to the Congress on the Sec-*  
14       *retary’s activities under this subsection, including an*  
15       *initial report not later than the date that is 18*  
16       *months after the date of the enactment of the Individ-*  
17       *uals with Disabilities Act Amendments of 1997.*

18       “(b) *ELIGIBLE APPLICANTS.*—

19       “(1) *IN GENERAL.*—*Except as otherwise provided*  
20       *in this subpart, the following entities are eligible to*  
21       *apply for a grant, contract, or cooperative agreement*  
22       *under this subpart:*

23                “(A) *A State educational agency.*

24                “(B) *A local educational agency.*

25                “(C) *An institution of higher education.*

1                   “(D) *Any other public agency.*

2                   “(E) *A private nonprofit organization.*

3                   “(F) *An outlying area.*

4                   “(G) *An Indian tribe or a tribal organiza-*  
5                   *tion (as defined under section 4 of the Indian*  
6                   *Self-Determination and Education Assistance*  
7                   *Act).*

8                   “(H) *A for-profit organization, if the Sec-*  
9                   *retary finds it appropriate in light of the pur-*  
10                  *poses of a particular competition for a grant,*  
11                  *contract, or cooperative agreement under this*  
12                  *subpart.*

13                  “(2) *SPECIAL RULE.—The Secretary may limit*  
14                  *the entities eligible for an award of a grant, contract,*  
15                  *or cooperative agreement to one or more categories of*  
16                  *eligible entities described in paragraph (1).*

17                  “(c) *USE OF FUNDS BY SECRETARY.—Notwithstand-*  
18                  *ing any other provision of law, and in addition to any au-*  
19                  *thority granted the Secretary under chapter 1 or chapter*  
20                  *2, the Secretary may use up to 20 percent of the funds*  
21                  *available under either chapter 1 or chapter 2 for any fiscal*  
22                  *year to carry out any activity, or combination of activities,*  
23                  *subject to such conditions as the Secretary determines are*  
24                  *appropriate effectively to carry out the purposes of such*  
25                  *chapters, that—*

1           “(A) is consistent with the purposes of chapter 1,  
2       chapter 2, or both; and

3           “(B) involves—

4               “(i) research;

5               “(ii) personnel preparation;

6               “(iii) parent training and information;

7               “(iv) technical assistance and dissemina-  
8       tion;

9               “(v) technology development, demonstration,  
10      and utilization; or

11              “(vi) media services.

12      “(d) SPECIAL POPULATIONS.—

13           “(1) APPLICATION REQUIREMENT.—In making  
14      an award of a grant, contract, or cooperative agree-  
15      ment under this subpart, the Secretary shall, as ap-  
16      propriate, require an applicant to demonstrate how  
17      the applicant will address the needs of children with  
18      disabilities from minority backgrounds.

19           “(2) OUTREACH AND TECHNICAL ASSISTANCE.—

20               “(A) REQUIREMENT.—Notwithstanding any  
21      other provision of this Act, the Secretary shall  
22      ensure that at least one percent of the total  
23      amount of funds appropriated to carry out this  
24      subpart is used for either or both of the following  
25      activities:

1                   “(i) *To provide outreach and technical*  
 2                   *assistance to Historically Black Colleges*  
 3                   *and Universities, and to institutions of*  
 4                   *higher education with minority enrollments*  
 5                   *of at least 25 percent, to promote the par-*  
 6                   *ticipation of such colleges, universities, and*  
 7                   *institutions in activities under this subpart.*

8                   “(ii) *To enable Historically Black Col-*  
 9                   *leges and Universities, and the institutions*  
 10                   *described in clause (i), to assist other col-*  
 11                   *leges, universities, institutions, and agencies*  
 12                   *in improving educational and transitional*  
 13                   *results for children with disabilities.*

14                   “(B) *RESERVATION OF FUNDS.—The Sec-*  
 15                   *retary may reserve funds appropriated under*  
 16                   *this subpart to satisfy the requirement of sub-*  
 17                   *paragraph (A).*

18                   “(e) *PRIORITIES.—*

19                   “(1) *IN GENERAL.—Except as otherwise explic-*  
 20                   *itly authorized in this subpart, the Secretary shall en-*  
 21                   *sure that a grant, contract, or cooperative agreement*  
 22                   *under chapter 1 or 2 is awarded only—*

23                   “(A) *for activities that are designed to bene-*  
 24                   *fit children with disabilities, their families, or*

1           *the personnel employed to work with such chil-*  
2           *dren or their families; or*

3           *“(B) to benefit other individuals with dis-*  
4           *abilities who such chapter is intended to benefit.*

5           *“(2) PRIORITY FOR PARTICULAR ACTIVITIES.—*  
6           *Subject to paragraph (1), the Secretary, in making*  
7           *an award of a grant, contract, or cooperative agree-*  
8           *ment under this subpart, may, without regard to the*  
9           *rule making procedures under section 553 of title 5,*  
10          *United States Code, limit competitions to, or other-*  
11          *wise give priority to—*

12           *“(A) projects that address one or more—*

13           *“(i) age ranges;*

14           *“(ii) disabilities;*

15           *“(iii) school grades;*

16           *“(iv) types of educational placements*  
17           *or early intervention environments;*

18           *“(v) types of services;*

19           *“(vi) content areas, such as reading; or*

20           *“(vii) effective strategies for helping*  
21           *children with disabilities learn appropriate*  
22           *behavior in the school and other commu-*  
23           *nity-based educational settings;*

24           *“(B) projects that address the needs of chil-*  
25           *dren based on the severity of their disability;*



1 “(C) projects that address the needs of—

2 “(i) low-achieving students;

3 “(ii) underserved populations;

4 “(iii) children from low-income fami-  
5 lies;

6 “(iv) children with limited English  
7 proficiency;

8 “(v) unserved and underserved areas;

9 “(vi) particular types of geographic  
10 areas; or

11 “(vii) children whose behavior inter-  
12 feres with their learning and socialization;

13 “(D) projects to reduce inappropriate iden-  
14 tification of children as children with disabil-  
15 ities, particularly among minority children;

16 “(E) projects that are carried out in par-  
17 ticular areas of the country, to ensure broad geo-  
18 graphic coverage; and

19 “(F) any activity that is expressly author-  
20 ized in chapter 1 or 2.

21 “(f) *APPLICANT AND RECIPIENT RESPONSIBILITIES.*—

22 “(1) *DEVELOPMENT AND ASSESSMENT OF*  
23 *PROJECTS.*—The Secretary shall require that an ap-  
24 plicant for, and a recipient of, a grant, contract, or

1 cooperative agreement for a project under this sub-  
2 part—

3 “(A) involve individuals with disabilities or  
4 parents of individuals with disabilities in plan-  
5 ning, implementing, and evaluating the project;  
6 and

7 “(B) where appropriate, determine whether  
8 the project has any potential for replication and  
9 adoption by other entities.

10 “(2) *ADDITIONAL RESPONSIBILITIES.*—The Sec-  
11 retary may require a recipient of a grant, contract,  
12 or cooperative agreement for a project under this sub-  
13 part—

14 “(A) to share in the cost of the project;

15 “(B) to prepare the research and evaluation  
16 findings and products from the project in for-  
17 mats that are useful for specific audiences, in-  
18 cluding parents, administrators, teachers, early  
19 intervention personnel, related services personnel,  
20 and individuals with disabilities;

21 “(C) to disseminate such findings and prod-  
22 ucts; and

23 “(D) to collaborate with other such recipi-  
24 ents in carrying out subparagraphs (B) and (C).

25 “(g) *APPLICATION MANAGEMENT.*—

1 “(1) *STANDING PANEL.*—

2 “(A) *IN GENERAL.*—*The Secretary shall es-*  
3 *tablish and use a standing panel of experts who*  
4 *are competent, by virtue of their training, exper-*  
5 *tise, or experience, to evaluate applications*  
6 *under this subpart that, individually, request*  
7 *more than \$75,000 per year in Federal financial*  
8 *assistance.*

9 “(B) *MEMBERSHIP.*—*The standing panel*  
10 *shall include, at a minimum—*

11 “(i) *individuals who are representa-*  
12 *tives of institutions of higher education that*  
13 *plan, develop, and carry out programs of*  
14 *personnel preparation;*

15 “(ii) *individuals who design and carry*  
16 *out programs of research targeted to the im-*  
17 *provement of special education programs*  
18 *and services;*

19 “(iii) *individuals who have recognized*  
20 *experience and knowledge necessary to inte-*  
21 *grate and apply research findings to im-*  
22 *prove educational and transitional results*  
23 *for children with disabilities;*

1                   “(iv) individuals who administer pro-  
2                   grams at the State or local level in which  
3                   children with disabilities participate;

4                   “(v) individuals who prepare parents  
5                   of children with disabilities to participate  
6                   in making decisions about the education of  
7                   their children;

8                   “(vi) individuals who establish policies  
9                   that affect the delivery of services to chil-  
10                  dren with disabilities;

11                  “(vii) individuals who are parents of  
12                  children with disabilities who are benefit-  
13                  ing, or have benefited, from coordinated re-  
14                  search, personnel preparation, and technical  
15                  assistance; and

16                  “(viii) individuals with disabilities.

17                  “(C) *TRAINING.*—The Secretary shall pro-  
18                  vide training to the individuals who are selected  
19                  as members of the standing panel under this  
20                  paragraph.

21                  “(D) *TERM.*—No individual shall serve on  
22                  the standing panel for more than 3 consecutive  
23                  years, unless the Secretary determines that the  
24                  individual’s continued participation is necessary  
25                  for the sound administration of this subpart.

1           “(2) *PEER-REVIEW PANELS FOR PARTICULAR*  
2           *COMPETITIONS.*—

3           “(A) *COMPOSITION.*—*The Secretary shall*  
4           *ensure that each sub-panel selected from the*  
5           *standing panel that reviews applications under*  
6           *this subpart includes—*

7                   “(i) *individuals with knowledge and*  
8                   *expertise on the issues addressed by the ac-*  
9                   *tivities authorized by the subpart; and*

10                   “(ii) *to the extent practicable, parents*  
11                   *of children with disabilities, individuals*  
12                   *with disabilities, and persons from diverse*  
13                   *backgrounds.*

14           “(B) *FEDERAL EMPLOYMENT LIMITATION.*—  
15           *A majority of the individuals on each sub-panel*  
16           *that reviews an application under this subpart*  
17           *shall be individuals who are not employees of the*  
18           *Federal Government.*

19           “(3) *USE OF DISCRETIONARY FUNDS FOR ADMIN-*  
20           *ISTRATIVE PURPOSES.*—

21           “(A) *EXPENSES AND FEES OF NON-FED-*  
22           *ERAL PANEL MEMBERS.*—*The Secretary may use*  
23           *funds available under this subpart to pay the ex-*  
24           *penses and fees of the panel members who are not*  
25           *officers or employees of the Federal Government.*

1           “(B) *ADMINISTRATIVE SUPPORT.*—*The Sec-*  
2           *retary may use not more than 1 percent of the*  
3           *funds appropriated to carry out this subpart to*  
4           *pay non-Federal entities for administrative sup-*  
5           *port related to management of applications sub-*  
6           *mitted under this subpart.*

7           “(C) *MONITORING.*—*The Secretary may use*  
8           *funds available under this subpart to pay the ex-*  
9           *penses of Federal employees to conduct on-site*  
10          *monitoring of projects receiving \$500,000 or*  
11          *more for any fiscal year under this subpart.*

12          “(h) *PROGRAM EVALUATION.*—*The Secretary may use*  
13          *funds appropriated to carry out this subpart to evaluate*  
14          *activities carried out under the subpart.*

15          “(i) *MINIMUM FUNDING REQUIRED.*—

16               “(1) *IN GENERAL.*—*Subject to paragraph (2), the*  
17          *Secretary shall ensure that, for each fiscal year, at*  
18          *least the following amounts are provided under this*  
19          *subpart to address the following needs:*

20                       “(A) *\$12,832,000 to address the edu-*  
21                       *cational, related services, transitional, and early*  
22                       *intervention needs of children with deaf-blind-*  
23                       *ness.*

1           “(B) \$4,000,000 to address the postsecond-  
2           ary, vocational, technical, continuing, and adult  
3           education needs of individuals with deafness.

4           “(C) \$4,000,000 to address the educational,  
5           related services, and transitional needs of chil-  
6           dren with an emotional disturbance and those  
7           who are at risk of developing an emotional dis-  
8           turbance.

9           “(2) *RATABLE REDUCTION*.—If the total amount  
10          appropriated to carry out sections 672, 673, and 685  
11          for any fiscal year is less than \$130,000,000, the  
12          amounts listed in (1) shall be ratably reduced.

13          “(j) *ELIGIBILITY FOR FINANCIAL ASSISTANCE*.—Effec-  
14          tive for fiscal years for which the Secretary may make  
15          grants under section 619(b), no State or local educational  
16          agency or educational service agency or other public insti-  
17          tution or agency may receive a grant under this subpart  
18          which relates exclusively to programs, projects, and activi-  
19          ties pertaining to children aged three to five, inclusive, un-  
20          less the State is eligible to receive a grant under section  
21          619(b).

1 ***“Chapter 1—Improving Early Intervention, Edu-***  
2 ***cational, and Transitional Services and Results***  
3 ***for Children with Disabilities through Coordi-***  
4 ***nated Research and Personnel Preparation***

5 ***“SEC. 671. FINDINGS AND PURPOSE.***

6 *“(a) FINDINGS.—The Congress finds the following:*

7 *“(1) The Federal Government has an ongoing ob-*  
8 *ligation to support programs, projects, and activities*  
9 *that contribute to positive results for children with*  
10 *disabilities, enabling them—*

11 *“(A) to meet their early intervention, edu-*  
12 *cational, and transitional goals and, to the max-*  
13 *imum extent possible, educational standards that*  
14 *have been established for all children; and*

15 *“(B) to acquire the skills that will empower*  
16 *them to lead productive and independent adult*  
17 *lives.*

18 *“(2)(A) As a result of more than 20 years of*  
19 *Federal support for research, demonstration projects,*  
20 *and personnel preparation, there is an important*  
21 *knowledge base for improving results for children with*  
22 *disabilities.*

23 *“(B) Such knowledge should be used by States*  
24 *and local educational agencies to design and imple-*  
25 *ment state-of-the-art educational systems that con-*  
26 *sider the needs of, and include, children with disabil-*



1        *ities, especially in environments in which they can*  
2        *learn along with their peers and achieve results meas-*  
3        *ured by the same standards as the results of their*  
4        *peers.*

5            *“(3)(A) Continued Federal support is essential*  
6        *for the development and maintenance of a coordinated*  
7        *and high-quality program of research, demonstration*  
8        *projects, dissemination of information, and personnel*  
9        *preparation.*

10          *“(B) Such support—*

11            *“(i) enables State educational agencies and*  
12        *local educational agencies to improve their edu-*  
13        *cational systems and results for children with*  
14        *disabilities;*

15            *“(ii) enables State and local agencies to im-*  
16        *prove early intervention services and results for*  
17        *infants and toddlers with disabilities and their*  
18        *families; and*

19            *“(iii) enhances the opportunities for general*  
20        *and special education personnel, related services*  
21        *personnel, parents, and paraprofessionals to par-*  
22        *ticipate in pre-service and in-service training, to*  
23        *collaborate, and to improve results for children*  
24        *with disabilities and their families.*

1           “(4) *The Federal Government plays a critical*  
2           *role in facilitating the availability of an adequate*  
3           *number of qualified personnel—*

4                   “(A) *to serve effectively the over 5,000,000*  
5                   *children with disabilities;*

6                   “(B) *to assume leadership positions in ad-*  
7                   *ministrative and direct-service capacities related*  
8                   *to teacher training and research concerning the*  
9                   *provision of early intervention services, special*  
10                  *education, and related services; and*

11                  “(C) *to work with children with low-inci-*  
12                  *dence disabilities and their families.*

13           “(5) *The Federal Government performs the role*  
14           *described in paragraph (4)—*

15                   “(A) *by supporting models of personnel de-*  
16                   *velopment that reflect successful practice, includ-*  
17                   *ing strategies for recruiting, preparing, and re-*  
18                   *taining personnel;*

19                   “(B) *by promoting the coordination and in-*  
20                   *tegration of—*

21                           “(i) *personnel-development activities*  
22                           *for teachers of children with disabilities;*  
23                           *and*

1                   “(ii) other personnel-development ac-  
 2                   tivities supported under Federal law, in-  
 3                   cluding this chapter;

4                   “(C) by supporting the development and  
 5                   dissemination of information about teaching  
 6                   standards; and

7                   “(D) by promoting the coordination and in-  
 8                   tegration of personnel-development activities  
 9                   through linkage with systemic-change activities  
 10                  within States and nationally.

11               “(b) *PURPOSE.*—The purpose of this chapter is to pro-  
 12               vide Federal funding for coordinated research, demonstra-  
 13               tion projects, outreach, and personnel-preparation activities  
 14               that—

15               “(1) are described in sections 672 through 674;

16               “(2) are linked with, and promote, systemic  
 17               change; and

18               “(3) improve early intervention, educational,  
 19               and transitional results for children with disabilities.

20               **“SEC. 672. RESEARCH AND INNOVATION TO IMPROVE SERV-**  
 21                               **ICES AND RESULTS FOR CHILDREN WITH DIS-**  
 22                               **ABILITIES.**

23               “(a) *IN GENERAL.*—The Secretary shall make competi-  
 24               tive grants to, or enter into contracts or cooperative agree-

1 *ments with, eligible entities to produce, and advance the*  
2 *use of, knowledge—*

3 *“(1) to improve—*

4 *“(A) services provided under this Act, in-*  
5 *cluding the practices of professionals and others*  
6 *involved in providing such services to children*  
7 *with disabilities; and*

8 *“(B) educational results for children with*  
9 *disabilities;*

10 *“(2) to address the special needs of preschool-*  
11 *aged children and infants and toddlers with disabil-*  
12 *ities, including infants and toddlers who would be at*  
13 *risk of having substantial developmental delays if*  
14 *early intervention services were not provided to them;*

15 *“(3) to address the specific problems of over-iden-*  
16 *tification and under-identification of children with*  
17 *disabilities;*

18 *“(4) to develop and implement effective strategies*  
19 *for addressing inappropriate behavior of students*  
20 *with disabilities in schools, including strategies to*  
21 *prevent children with emotional and behavioral prob-*  
22 *lems from developing emotional disturbances that re-*  
23 *quire the provision of special education and related*  
24 *services;*

1           “(5) to improve secondary and postsecondary  
2           education and transitional services for children with  
3           disabilities; and

4           “(6) to address the range of special education, re-  
5           lated services, and early intervention needs of chil-  
6           dren with disabilities who need significant levels of  
7           support to maximize their participation and learning  
8           in school and in the community.

9           “(b) *NEW KNOWLEDGE PRODUCTION; AUTHORIZED*  
10 *ACTIVITIES.*—

11           “(1) *IN GENERAL.*—*In carrying out this section,*  
12 *the Secretary shall support activities, consistent with*  
13 *the objectives described in subsection (a), that lead to*  
14 *the production of new knowledge.*

15           “(2) *AUTHORIZED ACTIVITIES.*—*Activities that*  
16 *may be carried out under this subsection include ac-*  
17 *tivities such as the following:*

18           “(A) *Expanding understanding of the rela-*  
19 *tionships between learning characteristics of chil-*  
20 *dren with disabilities and the diverse ethnic, cul-*  
21 *tural, linguistic, social, and economic back-*  
22 *grounds of children with disabilities and their*  
23 *families.*

24           “(B) *Developing or identifying innovative,*  
25 *effective, and efficient curricula designs, instruc-*

1        *tional approaches, and strategies, and developing*  
2        *or identifying positive academic and social*  
3        *learning opportunities, that—*

4                *“(i) enable children with disabilities to*  
5                *make effective transitions described in sec-*  
6                *tion 674(b)(3)(C) or transitions between*  
7                *educational settings; and*

8                *“(ii) improve educational and transi-*  
9                *tional results for children with disabilities*  
10               *at all levels of the educational system in*  
11               *which the activities are carried out and, in*  
12               *particular, that improve the progress of the*  
13               *children, as measured by assessments within*  
14               *the general education curriculum involved.*

15               *“(C) Advancing the design of assessment*  
16               *tools and procedures that will accurately and ef-*  
17               *ficiently determine the special instructional,*  
18               *learning, and behavioral needs of children with*  
19               *disabilities, especially within the context of gen-*  
20               *eral education.*

21               *“(D) Studying and promoting improved*  
22               *alignment and compatibility of general and spe-*  
23               *cial education reforms concerned with curricular*  
24               *and instructional reform, evaluation and ac-*

1           *countability of such reforms, and administrative*  
2           *procedures.*

3           “(E) *Advancing the design, development,*  
4           *and integration of technology, assistive tech-*  
5           *nology devices, media, and materials, to improve*  
6           *early intervention, educational, and transitional*  
7           *services and results for children with disabilities.*

8           “(F) *Improving designs, processes, and re-*  
9           *sults of personnel preparation for personnel who*  
10          *provide services to children with disabilities*  
11          *through the acquisition of information on, and*  
12          *implementation of, research-based practices.*

13          “(G) *Advancing knowledge about the coordi-*  
14          *nation of education with health and social serv-*  
15          *ices.*

16          “(H) *Producing information on the long-*  
17          *term impact of early intervention and education*  
18          *on results for individuals with disabilities*  
19          *through large-scale longitudinal studies.*

20          “(c) *INTEGRATION OF RESEARCH AND PRACTICE; AU-*  
21          *THORIZED ACTIVITIES.—*

22          “(1) *IN GENERAL.—In carrying out this section,*  
23          *the Secretary shall support activities, consistent with*  
24          *the objectives described in subsection (a), that inte-*  
25          *grate research and practice, including activities that*

1 support State systemic-change and local capacity-  
2 building and improvement efforts.

3 “(2) *AUTHORIZED ACTIVITIES.*—Activities that  
4 may be carried out under this subsection include ac-  
5 tivities such as the following:

6 “(A) *Model demonstration projects to apply*  
7 *and test research findings in typical service set-*  
8 *tings to determine the usability, effectiveness,*  
9 *and general applicability of such research find-*  
10 *ings in such areas as improving instructional*  
11 *methods, curricula, and tools, such as textbooks*  
12 *and media.*

13 “(B) *Demonstrating and applying research-*  
14 *based findings to facilitate systemic changes, re-*  
15 *lated to the provision of services to children with*  
16 *disabilities, in policy, procedure, practice, and*  
17 *the training and use of personnel.*

18 “(C) *Promoting and demonstrating the co-*  
19 *ordination of early intervention and educational*  
20 *services for children with disabilities with serv-*  
21 *ices provided by health, rehabilitation, and social*  
22 *service agencies.*

23 “(D) *Identifying and disseminating solu-*  
24 *tions that overcome systemic barriers to the effec-*  
25 *tive and efficient delivery of early intervention,*



1           *educational, and transitional services to children*  
2           *with disabilities.*

3           “(d) *IMPROVING THE USE OF PROFESSIONAL KNOWL-*  
4 *EDGE; AUTHORIZED ACTIVITIES.—*

5           “(1) *IN GENERAL.—In carrying out this section,*  
6           *the Secretary shall support activities, consistent with*  
7           *the objectives described in subsection (a), that improve*  
8           *the use of professional knowledge, including activities*  
9           *that support State systemic-change and local capac-*  
10          *ity-building and improvement efforts.*

11          “(2) *AUTHORIZED ACTIVITIES.—Activities that*  
12          *may be carried out under this subsection include ac-*  
13          *tivities such as the following:*

14               “(A) *Synthesizing useful research and other*  
15               *information relating to the provision of services*  
16               *to children with disabilities, including effective*  
17               *practices.*

18               “(B) *Analyzing professional knowledge*  
19               *bases to advance an understanding of the rela-*  
20               *tionships, and the effectiveness of practices, relat-*  
21               *ing to the provision of services to children with*  
22               *disabilities.*

23               “(C) *Ensuring that research and related*  
24               *products are in appropriate formats for distribu-*

1           tion to teachers, parents, and individuals with  
2           disabilities.

3           “(D) *Enabling professionals, parents of*  
4           *children with disabilities, and other persons, to*  
5           *learn about, and implement, the findings of re-*  
6           *search, and successful practices developed in*  
7           *model demonstration projects, relating to the*  
8           *provision of services to children with disabilities.*

9           “(E) *Conducting outreach, and disseminat-*  
10          *ing information relating to successful approaches*  
11          *to overcoming systemic barriers to the effective*  
12          *and efficient delivery of early intervention, edu-*  
13          *cational, and transitional services, to personnel*  
14          *who provide services to children with disabilities.*

15          “(e) *BALANCE AMONG ACTIVITIES AND AGE*  
16          *RANGES.—In carrying out this section, the Secretary shall*  
17          *ensure that there is an appropriate balance—*

18                 “(1) *among knowledge production, integration of*  
19                 *research and practice, and use of professional knowl-*  
20                 *edge; and*

21                 “(2) *across all age ranges of children with dis-*  
22                 *abilities.*

23          “(f) *APPLICATIONS.—An eligible entity that wishes to*  
24          *receive a grant, or enter into a contract or cooperative*  
25          *agreement, under this section shall submit an application*

1 *to the Secretary at such time, in such manner, and contain-*  
 2 *ing such information as the Secretary may require.*

3 “(g) *AUTHORIZATION OF APPROPRIATIONS.—There*  
 4 *are authorized to be appropriated to carry out this section*  
 5 *such sums as may be necessary for each of the fiscal years*  
 6 *1998 through 2002.*

7 **“SEC. 673. PERSONNEL PREPARATION TO IMPROVE SERV-**  
 8 **ICES AND RESULTS FOR CHILDREN WITH DIS-**  
 9 **ABILITIES.**

10 “(a) *IN GENERAL.—The Secretary shall, on a competi-*  
 11 *tive basis, make grants to, or enter into contracts or cooper-*  
 12 *ative agreements with, eligible entities—*

13 “(1) *to help address State-identified needs for*  
 14 *qualified personnel in special education, related serv-*  
 15 *ices, early intervention, and regular education, to*  
 16 *work with children with disabilities; and*

17 “(2) *to ensure that those personnel have the skills*  
 18 *and knowledge, derived from practices that have been*  
 19 *determined, through research and experience, to be*  
 20 *successful, that are needed to serve those children.*

21 “(b) *LOW-INCIDENCE DISABILITIES; AUTHORIZED AC-*  
 22 *TIVITIES.—*

23 “(1) *IN GENERAL.—In carrying out this section,*  
 24 *the Secretary shall support activities, consistent with*

1       *the objectives described in subsection (a), that benefit*  
2       *children with low-incidence disabilities.*

3               “(2) *AUTHORIZED ACTIVITIES.—Activities that*  
4       *may be carried out under this subsection include ac-*  
5       *tivities such as the following:*

6                       “(A) *Preparing persons who—*

7                               “(i) *have prior training in educational*  
8                               *and other related service fields; and*

9                               “(ii) *are studying to obtain degrees,*  
10                              *certificates, or licensure that will enable*  
11                              *them to assist children with disabilities to*  
12                              *achieve the objectives set out in their indi-*  
13                              *vidualized education programs described in*  
14                              *section 614(d), or to assist infants and tod-*  
15                              *dlers with disabilities to achieve the out-*  
16                              *comes described in their individualized fam-*  
17                              *ily service plans described in section 636.*

18                      “(B) *Providing personnel from various dis-*  
19                      *ciplines with interdisciplinary training that will*  
20                      *contribute to improvement in early intervention,*  
21                      *educational, and transitional results for children*  
22                      *with disabilities.*

23                      “(C) *Preparing personnel in the innovative*  
24                      *uses and application of technology to enhance*  
25                      *learning by children with disabilities through*

1       *early intervention, educational, and transitional*  
2       *services.*

3               “(D) *Preparing personnel who provide serv-*  
4       *ices to visually impaired or blind children to*  
5       *teach and use Braille in the provision of services*  
6       *to such children.*

7               “(E) *Preparing personnel to be qualified*  
8       *educational interpreters, to assist children with*  
9       *disabilities, particularly deaf and hard-of-hear-*  
10       *ing children in school and school-related activi-*  
11       *ties and deaf and hard-of-hearing infants and*  
12       *toddlers and preschool children in early interven-*  
13       *tion and preschool programs.*

14               “(F) *Preparing personnel who provide serv-*  
15       *ices to children with significant cognitive dis-*  
16       *abilities and children with multiple disabilities.*

17               “(3) *DEFINITION.—As used in this section, the*  
18       *term ‘low-incidence disability’ means—*

19                       “(A) *a visual or hearing impairment, or si-*  
20       *multaneous visual and hearing impairments;*

21                       “(B) *a significant cognitive impairment; or*

22                       “(C) *any impairment for which a small*  
23       *number of personnel with highly specialized*  
24       *skills and knowledge are needed in order for chil-*  
25       *dren with that impairment to receive early*

1           *intervention services or a free appropriate public*  
2           *education.*

3           “(4) *SELECTION OF RECIPIENTS.—In selecting*  
4           *recipients under this subsection, the Secretary may*  
5           *give preference to applications that propose to pre-*  
6           *pare personnel in more than one low-incidence dis-*  
7           *ability, such as deafness and blindness.*

8           “(5) *PREPARATION IN USE OF BRAILLE.—The*  
9           *Secretary shall ensure that all recipients of assistance*  
10          *under this subsection who will use that assistance to*  
11          *prepare personnel to provide services to visually im-*  
12          *paired or blind children that can appropriately be*  
13          *provided in Braille will prepare those individuals to*  
14          *provide those services in Braille.*

15          “(c) *LEADERSHIP PREPARATION; AUTHORIZED AC-*  
16          *TIVITIES.—*

17               “(1) *IN GENERAL.—In carrying out this section,*  
18               *the Secretary shall support leadership preparation ac-*  
19               *tivities that are consistent with the objectives de-*  
20               *scribed in subsection (a).*

21               “(2) *AUTHORIZED ACTIVITIES.—Activities that*  
22               *may be carried out under this subsection include ac-*  
23               *tivities such as the following:*

24                       “(A) *Preparing personnel at the advanced*  
25                       *graduate, doctoral, and postdoctoral levels of*

1           *training to administer, enhance, or provide serv-*  
2           *ices for children with disabilities.*

3           “(B) *Providing interdisciplinary training*  
4           *for various types of leadership personnel, includ-*  
5           *ing teacher preparation faculty, administrators,*  
6           *researchers, supervisors, principals, and other*  
7           *persons whose work affects early intervention,*  
8           *educational, and transitional services for chil-*  
9           *dren with disabilities.*

10          “(d) *PROJECTS OF NATIONAL SIGNIFICANCE; AUTHOR-*  
11          *IZED ACTIVITIES.—*

12           “(1) *IN GENERAL.—In carrying out this section,*  
13           *the Secretary shall support activities, consistent with*  
14           *the objectives described in subsection (a), that are of*  
15           *national significance and have broad applicability.*

16           “(2) *AUTHORIZED ACTIVITIES.—Activities that*  
17           *may be carried out under this subsection include ac-*  
18           *tivities such as the following:*

19           “(A) *Developing and demonstrating effective*  
20           *and efficient practices for preparing personnel to*  
21           *provide services to children with disabilities, in-*  
22           *cluding practices that address any needs identi-*  
23           *fied in the State’s improvement plan under part*  
24           *C;*

1           “(B) *Demonstrating the application of sig-*  
2           *nificant knowledge derived from research and*  
3           *other sources in the development of programs to*  
4           *prepare personnel to provide services to children*  
5           *with disabilities.*

6           “(C) *Demonstrating models for the prepara-*  
7           *tion of, and interdisciplinary training of, early*  
8           *intervention, special education, and general edu-*  
9           *cation personnel, to enable the personnel—*

10           “(i) *to acquire the collaboration skills*  
11           *necessary to work within teams to assist*  
12           *children with disabilities; and*

13           “(ii) *to achieve results that meet chal-*  
14           *lenging standards, particularly within the*  
15           *general education curriculum.*

16           “(D) *Demonstrating models that reduce*  
17           *shortages of teachers, and personnel from other*  
18           *relevant disciplines, who serve children with dis-*  
19           *abilities, through reciprocity arrangements be-*  
20           *tween States that are related to licensure and*  
21           *certification.*

22           “(E) *Developing, evaluating, and dissemi-*  
23           *nating model teaching standards for persons*  
24           *working with children with disabilities.*



1           “(F) Promoting the transferability, across  
2           State and local jurisdictions, of licensure and  
3           certification of teachers and administrators  
4           working with such children.

5           “(G) Developing and disseminating models  
6           that prepare teachers with strategies, including  
7           behavioral interventions, for addressing the con-  
8           duct of children with disabilities that impedes  
9           their learning and that of others in the class-  
10          room.

11          “(H) Institutes that provide professional de-  
12          velopment that addresses the needs of children  
13          with disabilities to teachers or teams of teachers,  
14          and where appropriate, to school board members,  
15          administrators, principals, pupil-service person-  
16          nel, and other staff from individual schools.

17          “(I) Projects to improve the ability of gen-  
18          eral education teachers, principals, and other ad-  
19          ministrators to meet the needs of children with  
20          disabilities.

21          “(J) Developing, evaluating, and dissemi-  
22          nating innovative models for the recruitment, in-  
23          duction, retention, and assessment of new, quali-  
24          fied teachers, especially from groups that are

1           *underrepresented in the teaching profession, in-*  
 2           *cluding individuals with disabilities.*

3           “(K) *Supporting institutions of higher edu-*  
 4           *cation with minority enrollments of at least 25*  
 5           *percent for the purpose of preparing personnel to*  
 6           *work with children with disabilities.*

7           “(e) *HIGH-INCIDENCE DISABILITIES; AUTHORIZED*  
 8           *ACTIVITIES.—*

9           “(1) *IN GENERAL.—In carrying out this section,*  
 10          *the Secretary shall support activities, consistent with*  
 11          *the objectives described in subsection (a), to benefit*  
 12          *children with high-incidence disabilities, such as chil-*  
 13          *dren with specific learning disabilities, speech or lan-*  
 14          *guage impairment, or mental retardation.*

15          “(2) *AUTHORIZED ACTIVITIES.—Activities that*  
 16          *may be carried out under this subsection include the*  
 17          *following:*

18               “(A) *Activities undertaken by institutions*  
 19               *of higher education, local educational agencies,*  
 20               *and other local entities—*

21                       “(i) *to improve and reform their exist-*  
 22                       *ing programs to prepare teachers and relat-*  
 23                       *ed services personnel—*

24                               “(I) *to meet the diverse needs of*  
 25                               *children with disabilities for early*

1                    *intervention, educational, and transi-*  
2                    *tional services; and*

3                    *“(II) to work collaboratively in*  
4                    *regular classroom settings; and*

5                    *“(ii) to incorporate best practices and*  
6                    *research-based knowledge about preparing*  
7                    *personnel so they will have the knowledge*  
8                    *and skills to improve educational results for*  
9                    *children with disabilities.*

10                  *“(B) Activities incorporating innovative*  
11                  *strategies to recruit and prepare teachers and*  
12                  *other personnel to meet the needs of areas in*  
13                  *which there are acute and persistent shortages of*  
14                  *personnel.*

15                  *“(C) Developing career opportunities for*  
16                  *paraprofessionals to receive training as special*  
17                  *education teachers, related services personnel,*  
18                  *and early intervention personnel, including*  
19                  *interdisciplinary training to enable them to im-*  
20                  *prove early intervention, educational, and tran-*  
21                  *sitional results for children with disabilities.*

22                  *“(f) APPLICATIONS.—*

23                  *“(1) IN GENERAL.—Any eligible entity that*  
24                  *wishes to receive a grant, or enter into a contract or*  
25                  *cooperative agreement, under this section shall submit*

1        *an application to the Secretary at such time, in such*  
2        *manner, and containing such information as the Sec-*  
3        *retary may require.*

4            “(2) *IDENTIFIED STATE NEEDS.—*

5                    “(A) *REQUIREMENT TO ADDRESS IDENTI-*  
6                    *FIED NEEDS.—Any application under subsection*  
7                    *(b), (c), or (e) shall include information dem-*  
8                    *onstrating to the satisfaction of the Secretary*  
9                    *that the activities described in the application*  
10                   *will address needs identified by the State or*  
11                   *States the applicant proposes to serve.*

12                   “(B) *COOPERATION WITH STATE EDU-*  
13                   *CATIONAL AGENCIES.—Any applicant that is not*  
14                   *a local educational agency or a State edu-*  
15                   *cational agency shall include information dem-*  
16                   *onstrating to the satisfaction of the Secretary*  
17                   *that the applicant and one or more State edu-*  
18                   *cational agencies have engaged in a cooperative*  
19                   *effort to plan the project to which the application*  
20                   *pertains, and will cooperate in carrying out and*  
21                   *monitoring the project.*

22                   “(3) *ACCEPTANCE BY STATES OF PERSONNEL*  
23                   *PREPARATION REQUIREMENTS.—The Secretary may*  
24                   *require applicants to provide letters from one or more*  
25                   *States stating that the States—*

1           “(A) intend to accept successful completion  
2           of the proposed personnel preparation program  
3           as meeting State personnel standards for serving  
4           children with disabilities or serving infants and  
5           toddlers with disabilities; and

6           “(B) need personnel in the area or areas in  
7           which the applicant proposes to provide prepara-  
8           tion, as identified in the States’ comprehensive  
9           systems of personnel development under parts B  
10          and C.

11       “(g) *SELECTION OF RECIPIENTS.*—

12           “(1) *IMPACT OF PROJECT.*—In selecting recipi-  
13          ents under this section, the Secretary may consider  
14          the impact of the project proposed in the application  
15          in meeting the need for personnel identified by the  
16          States.

17           “(2) *REQUIREMENT ON APPLICANTS TO MEET*  
18          *STATE AND PROFESSIONAL STANDARDS.*—The Sec-  
19          retary shall make grants under this section only to el-  
20          igible applicants that meet State and professionally-  
21          recognized standards for the preparation of special  
22          education and related services personnel, if the pur-  
23          pose of the project is to assist personnel in obtaining  
24          degrees.

1           “(3) *PREFERENCES.—In selecting recipients*  
2           *under this section, the Secretary may—*

3                   “(A) *give preference to institutions of higher*  
4                   *education that are educating regular education*  
5                   *personnel to meet the needs of children with dis-*  
6                   *abilities in integrated settings and educating*  
7                   *special education personnel to work in collabora-*  
8                   *tion with regular educators in integrated set-*  
9                   *tings; and*

10                   “(B) *give preference to institutions of higher*  
11                   *education that are successfully recruiting and*  
12                   *preparing individuals with disabilities and indi-*  
13                   *viduals from groups that are underrepresented in*  
14                   *the profession for which they are preparing indi-*  
15                   *viduals.*

16           “(h) *SERVICE OBLIGATION.—*

17                   “(1) *IN GENERAL.—Each application for funds*  
18                   *under subsections (b) and (e), and to the extent ap-*  
19                   *propriate subsection (d), shall include an assurance*  
20                   *that the applicant will ensure that individuals who*  
21                   *receive a scholarship under the proposed project will*  
22                   *subsequently provide special education and related*  
23                   *services to children with disabilities for a period of 2*  
24                   *years for every year for which assistance was received*

1       or repay all or part of the cost of that assistance, in  
2       accordance with regulations issued by the Secretary.

3           “(2) *LEADERSHIP PREPARATION.*—Each appli-  
4       cation for funds under subsection (c) shall include an  
5       assurance that the applicant will ensure that individ-  
6       uals who receive a scholarship under the proposed  
7       project will subsequently perform work related to their  
8       preparation for a period of 2 years for every year for  
9       which assistance was received or repay all or part of  
10      such costs, in accordance with regulations issued by  
11      the Secretary.

12       “(i) *SCHOLARSHIPS.*—The Secretary may include  
13      funds for scholarships, with necessary stipends and allow-  
14      ances, in awards under subsections (b), (c), (d), and (e).

15       “(j) *AUTHORIZATION OF APPROPRIATIONS.*—There are  
16      authorized to be appropriated to carry out this section such  
17      sums as may be necessary for each of the fiscal years 1998  
18      through 2002.

19      **“SEC. 674. STUDIES AND EVALUATIONS.**

20       “(a) *STUDIES AND EVALUATIONS.*—

21           “(1) *IN GENERAL.*—The Secretary shall, directly  
22      or through grants, contracts, or cooperative agree-  
23      ments, assess the progress in the implementation of  
24      this Act, including the effectiveness of State and local  
25      efforts to provide—

1           “(A) a free appropriate public education to  
2           children with disabilities; and

3           “(B) early intervention services to infants  
4           and toddlers with disabilities and infants and  
5           toddlers who would be at risk of having substan-  
6           tial developmental delays if early intervention  
7           services were not provided to them.

8           “(2) *AUTHORIZED ACTIVITIES.*—In carrying out  
9           this subsection, the Secretary may support studies,  
10          evaluations, and assessments, including studies that—

11          “(A) analyze measurable impact, outcomes,  
12          and results achieved by State educational agen-  
13          cies and local educational agencies through their  
14          activities to reform policies, procedures, and  
15          practices designed to improve educational and  
16          transitional services and results for children with  
17          disabilities;

18          “(B) analyze State and local needs for pro-  
19          fessional development, parent training, and other  
20          appropriate activities that can reduce the need  
21          for disciplinary actions involving children with  
22          disabilities;

23          “(C) assess educational and transitional  
24          services and results for children with disabilities  
25          from minority backgrounds, including—



1 “(i) data on—

2 “(I) the number of minority chil-  
3 dren who are referred for special edu-  
4 cation evaluation;

5 “(II) the number of minority chil-  
6 dren who are receiving special edu-  
7 cation and related services and their  
8 educational or other service placement;  
9 and

10 “(III) the number of minority  
11 children who graduated from secondary  
12 and postsecondary education programs;  
13 and

14 “(ii) the performance of children with  
15 disabilities from minority backgrounds on  
16 State assessments and other performance in-  
17 dicators established for all students;

18 “(D) measure educational and transitional  
19 services and results of children with disabilities  
20 under this Act, including longitudinal studies  
21 that—

22 “(i) examine educational and transi-  
23 tional services and results for children with  
24 disabilities who are 3 through 17 years of  
25 age and are receiving special education and

1           *related services under this Act, using a na-*  
2           *tional, representative sample of distinct age*  
3           *cohorts and disability categories; and*

4           “(ii) *examine educational results, post-*  
5           *secondary placement, and employment sta-*  
6           *tus of individuals with disabilities, 18*  
7           *through 21 years of age, who are receiving*  
8           *or have received special education and re-*  
9           *lated services under this Act; and*

10          “(E) *identify and report on the placement*  
11          *of children with disabilities by disability cat-*  
12          *egory.*

13          “(b) *NATIONAL ASSESSMENT.—*

14          “(1) *IN GENERAL.—The Secretary shall carry*  
15          *out a national assessment of activities carried out*  
16          *with Federal funds under this Act in order—*

17               “(A) *to determine the effectiveness of this*  
18               *Act in achieving its purposes;*

19               “(B) *to provide information to the Presi-*  
20               *dent, the Congress, the States, local educational*  
21               *agencies, and the public on how to implement the*  
22               *Act more effectively; and*

23               “(C) *to provide the President and the Con-*  
24               *gress with information that will be useful in de-*

1           *veloping legislation to achieve the purposes of*  
2           *this Act more effectively.*

3           “(2) *CONSULTATION.*—*The Secretary shall plan,*  
4           *review, and conduct the national assessment under*  
5           *this subsection in consultation with researchers, State*  
6           *practitioners, local practitioners, parents of children*  
7           *with disabilities, individuals with disabilities, and*  
8           *other appropriate individuals.*

9           “(3) *SCOPE OF ASSESSMENT.*—*The national as-*  
10          *essment shall examine how well schools, local edu-*  
11          *cational agencies, States, other recipients of assistance*  
12          *under this Act, and the Secretary are achieving the*  
13          *purposes of this Act, including—*

14                “(A) *improving the performance of children*  
15                *with disabilities in general scholastic activities*  
16                *and assessments as compared to nondisabled*  
17                *children;*

18                “(B) *providing for the participation of chil-*  
19                *dren with disabilities in the general curriculum;*

20                “(C) *helping children with disabilities make*  
21                *successful transitions from—*

22                        “(i) *early intervention services to pre-*  
23                        *school education;*

24                        “(ii) *preschool education to elementary*  
25                        *school; and*

1                   “(iii) secondary school to adult life;

2                   “(D) placing and serving children with dis-  
3                   abilities, including minority children, in the  
4                   least restrictive environment appropriate;

5                   “(E) preventing children with disabilities,  
6                   especially children with emotional disturbances  
7                   and specific learning disabilities, from dropping  
8                   out of school;

9                   “(F) addressing behavioral problems of chil-  
10                  dren with disabilities as compared to non-  
11                  disabled children;

12                  “(G) coordinating services provided under  
13                  this Act with each other, with other educational  
14                  and pupil services (including preschool services),  
15                  and with health and social services funded from  
16                  other sources;

17                  “(H) providing for the participation of par-  
18                  ents of children with disabilities in the education  
19                  of their children; and

20                  “(I) resolving disagreements between edu-  
21                  cation personnel and parents through activities  
22                  such as mediation.

23                  “(4) INTERIM AND FINAL REPORTS.—The Sec-  
24                  retary shall submit to the President and the Con-  
25                  gress—

1           “(A) *an interim report that summarizes the*  
2           *preliminary findings of the assessment not later*  
3           *than October 1, 1999; and*

4           “(B) *a final report of the findings of the as-*  
5           *essment not later than October 1, 2001.*

6           “(c) *ANNUAL REPORT.—The Secretary shall report an-*  
7           *nually to the Congress on—*

8           “(1) *an analysis and summary of the data re-*  
9           *ported by the States and the Secretary of the Interior*  
10          *under section 618;*

11          “(2) *the results of activities conducted under sub-*  
12          *section (a);*

13          “(3) *the findings and determinations resulting*  
14          *from reviews of State implementation of this Act.*

15          “(d) *TECHNICAL ASSISTANCE TO LEAS.—The Sec-*  
16          *retary shall provide directly, or through grants, contracts,*  
17          *or cooperative agreements, technical assistance to local edu-*  
18          *cational agencies to assist them in carrying out local capac-*  
19          *ity-building and improvement projects under section*  
20          *611(f)(4) and other LEA systemic improvement activities*  
21          *under this Act.*

22          “(e) *RESERVATION FOR STUDIES AND TECHNICAL AS-*  
23          *SISTANCE.—*

24          “(1) *IN GENERAL.—Except as provided in para-*  
25          *graph (2) and notwithstanding any other provision of*

1        *this Act, the Secretary may reserve up to one-half of*  
 2        *one percent of the amount appropriated under parts*  
 3        *B and C for each fiscal year to carry out this section.*

4            *“(2) MAXIMUM AMOUNT.—For the first fiscal*  
 5        *year in which the amount described in paragraph (1)*  
 6        *is at least \$20,000,000, the maximum amount the*  
 7        *Secretary may reserve under paragraph (1) is*  
 8        *\$20,000,000. For each subsequent fiscal year, the*  
 9        *maximum amount the Secretary may reserve under*  
 10       *paragraph (1) is \$20,000,000, increased by the cumu-*  
 11       *lative rate of inflation since the fiscal year described*  
 12       *in the previous sentence.*

13           *“(3) USE OF MAXIMUM AMOUNT.—In any fiscal*  
 14        *year described in paragraph (2) for which the Sec-*  
 15        *retary reserves the maximum amount described in*  
 16        *that paragraph, the Secretary shall use at least half*  
 17        *of the reserved amount for activities under subsection*  
 18        *(d).*

19        **“Chapter 2—Improving Early Intervention, Edu-**  
 20        **cational, and Transitional Services and Results**  
 21        **for Children With Disabilities Through Coordi-**  
 22        **nated Technical Assistance, Support, and Dis-**  
 23        **semination of Information**

24        **“SEC. 681. FINDINGS AND PURPOSES.**

25           *“(a) IN GENERAL.—The Congress finds as follows:*

1           “(1) *National technical assistance, support, and*  
2           *dissemination activities are necessary to ensure that*  
3           *parts B and C are fully implemented and achieve*  
4           *quality early intervention, educational, and transi-*  
5           *tional results for children with disabilities and their*  
6           *families.*

7           “(2) *Parents, teachers, administrators, and relat-*  
8           *ed services personnel need technical assistance and in-*  
9           *formation in a timely, coordinated, and accessible*  
10          *manner in order to improve early intervention, edu-*  
11          *cational, and transitional services and results at the*  
12          *State and local levels for children with disabilities*  
13          *and their families.*

14          “(3) *Parent training and information activities*  
15          *have taken on increased importance in efforts to as-*  
16          *sist parents of a child with a disability in dealing*  
17          *with the multiple pressures of rearing such a child*  
18          *and are of particular importance in—*

19                 “(A) *ensuring the involvement of such par-*  
20                 *ents in planning and decisionmaking with re-*  
21                 *spect to early intervention, educational, and*  
22                 *transitional services;*

23                 “(B) *achieving quality early intervention,*  
24                 *educational, and transitional results for children*  
25                 *with disabilities;*

1           “(C) providing such parents information on  
2           their rights and protections under this Act to en-  
3           sure improved early intervention, educational,  
4           and transitional results for children with dis-  
5           abilities;

6           “(D) assisting such parents in the develop-  
7           ment of skills to participate effectively in the  
8           education and development of their children and  
9           in the transitions described in section  
10          674(b)(3)(C); and

11          “(E) supporting the roles of such parents as  
12          participants within partnerships seeking to im-  
13          prove early intervention, educational, and tran-  
14          sitional services and results for children with  
15          disabilities and their families.

16          “(4) Providers of parent training and informa-  
17          tion activities need to ensure that such parents who  
18          have limited access to services and supports, due to  
19          economic, cultural, or linguistic barriers, are pro-  
20          vided with access to appropriate parent training and  
21          information activities.

22          “(5) Parents of children with disabilities need  
23          information that helps the parents to understand the  
24          rights and responsibilities of their children under  
25          part B.



1           “(6) *The provision of coordinated technical as-*  
2           *sistance and dissemination of information to State*  
3           *and local agencies, institutions of higher education,*  
4           *and other providers of services to children with dis-*  
5           *abilities is essential in—*

6                     “(A) *supporting the process of achieving*  
7                     *systemic change;*

8                     “(B) *supporting actions in areas of priority*  
9                     *specific to the improvement of early intervention,*  
10                    *educational, and transitional results for children*  
11                    *with disabilities;*

12                    “(C) *conveying information and assistance*  
13                    *that are—*

14                             “(i) *based on current research (as of*  
15                             *the date the information and assistance are*  
16                             *conveyed);*

17                             “(ii) *accessible and meaningful for use*  
18                             *in supporting systemic-change activities of*  
19                             *State and local partnerships; and*

20                             “(iii) *linked directly to improving*  
21                             *early intervention, educational, and transi-*  
22                             *tional services and results for children with*  
23                             *disabilities and their families; and*

1           “(D) organizing systems and information  
2           networks for such information, based on modern  
3           technology related to—

4                   “(i) storing and gaining access to in-  
5                   formation; and

6                   “(ii) distributing information in a sys-  
7                   tematic manner to parents, students, profes-  
8                   sionals, and policymakers.

9           “(7) Federal support for carrying out technology  
10          research, technology development, and educational  
11          media services and activities has resulted in major  
12          innovations that have significantly improved early  
13          intervention, educational, and transitional services  
14          and results for children with disabilities and their  
15          families.

16          “(8) Such Federal support is needed—

17                   “(A) to stimulate the development of soft-  
18                   ware, interactive learning tools, and devices to  
19                   address early intervention, educational, and  
20                   transitional needs of children with disabilities  
21                   who have certain disabilities;

22                   “(B) to make information available on tech-  
23                   nology research, technology development, and  
24                   educational media services and activities to indi-  
25                   viduals involved in the provision of early inter-

1           *vention, educational, and transitional services to*  
2           *children with disabilities;*

3           “(C) *to promote the integration of tech-*  
4           *nology into curricula to improve early interven-*  
5           *tion, educational, and transitional results for*  
6           *children with disabilities;*

7           “(D) *to provide incentives for the develop-*  
8           *ment of technology and media devices and tools*  
9           *that are not readily found or available because*  
10          *of the small size of potential markets;*

11          “(E) *to make resources available to pay for*  
12          *such devices and tools and educational media*  
13          *services and activities;*

14          “(F) *to promote the training of personnel—*

15                 “(i) *to provide such devices, tools, serv-*  
16                 *ices, and activities in a competent manner;*  
17                 *and*

18                 “(ii) *to assist children with disabilities*  
19                 *and their families in using such devices,*  
20                 *tools, services, and activities; and*

21          “(G) *to coordinate the provision of such de-*  
22          *vices, tools, services, and activities—*

23                 “(i) *among State human services pro-*  
24                 *grams; and*

1                   “(ii) between such programs and pri-  
2                   vate agencies.

3           “(b) *PURPOSES.*—*The purposes of this chapter are to*  
4 *ensure that—*

5                   “(1) children with disabilities, and their parents,  
6           *receive training and information on their rights and*  
7           *protections under this Act, in order to develop the*  
8           *skills necessary to effectively participate in planning*  
9           *and decisionmaking relating to early intervention,*  
10           *educational, and transitional services and in sys-*  
11           *temic-change activities;*

12                   “(2) parents, teachers, administrators, early  
13           *intervention personnel, related services personnel, and*  
14           *transition personnel receive coordinated and acces-*  
15           *sible technical assistance and information to assist*  
16           *such persons, through systemic-change activities and*  
17           *other efforts, to improve early intervention, edu-*  
18           *cational, and transitional services and results for*  
19           *children with disabilities and their families;*

20                   “(3) appropriate technology and media are re-  
21           *searched, developed, demonstrated, and made avail-*  
22           *able in timely and accessible formats to parents,*  
23           *teachers, and all types of personnel providing services*  
24           *to children with disabilities to support their roles as*  
25           *partners in the improvement and implementation of*

1        *early intervention, educational, and transitional serv-*  
2        *ices and results for children with disabilities and*  
3        *their families;*

4            *“(4) on reaching the age of majority under State*  
5        *law, children with disabilities understand their rights*  
6        *and responsibilities under part B, if the State pro-*  
7        *vides for the transfer of parental rights under section*  
8        *615(m); and*

9            *“(5) the general welfare of deaf and hard-of-hear-*  
10        *ing individuals is promoted by—*

11            *“(A) bringing to such individuals under-*  
12        *standing and appreciation of the films and tele-*  
13        *vision programs that play an important part in*  
14        *the general and cultural advancement of hearing*  
15        *individuals;*

16            *“(B) providing, through those films and tel-*  
17        *evision programs, enriched educational and cul-*  
18        *tural experiences through which deaf and hard-*  
19        *of-hearing individuals can better understand the*  
20        *realities of their environment; and*

21            *“(C) providing wholesome and rewarding*  
22        *experiences that deaf and hard-of-hearing indi-*  
23        *viduals may share.*

1 **“SEC. 682. PARENT TRAINING AND INFORMATION CENTERS.**

2       “(a) *PROGRAM AUTHORIZED.*—*The Secretary may*  
3 *make grants to, and enter into contracts and cooperative*  
4 *agreements with, parent organizations to support parent*  
5 *training and information centers to carry out activities*  
6 *under this section.*

7       “(b) *REQUIRED ACTIVITIES.*—*Each parent training*  
8 *and information center that receives assistance under this*  
9 *section shall—*

10           “(1) *provide training and information that*  
11 *meets the training and information needs of parents*  
12 *of children with disabilities living in the area served*  
13 *by the center, particularly underserved parents and*  
14 *parents of children who may be inappropriately iden-*  
15 *tified;*

16           “(2) *assist parents to understand the availability*  
17 *of, and how to effectively use, procedural safeguards*  
18 *under this Act, including encouraging the use, and*  
19 *explaining the benefits, of alternative methods of dis-*  
20 *pute resolution, such as the mediation process de-*  
21 *scribed in section 615(e);*

22           “(3) *serve the parents of infants, toddlers, and*  
23 *children with the full range of disabilities;*

24           “(4) *assist parents to—*

1           “(A) better understand the nature of their  
2           children’s disabilities and their educational and  
3           developmental needs;

4           “(B) communicate effectively with personnel  
5           responsible for providing special education, early  
6           intervention, and related services;

7           “(C) participate in decisionmaking proc-  
8           esses and the development of individualized edu-  
9           cation programs under part B and individual-  
10          ized family service plans under part C;

11          “(D) obtain appropriate information about  
12          the range of options, programs, services, and re-  
13          sources available to assist children with disabil-  
14          ities and their families;

15          “(E) understand the provisions of this Act  
16          for the education of, and the provision of early  
17          intervention services to, children with disabil-  
18          ities; and

19          “(F) participate in school reform activities;

20          “(5) in States where the State elects to contract  
21          with the parent training and information center, con-  
22          tract with State educational agencies to provide, con-  
23          sistent with subparagraphs (B) and (D) of section  
24          615(e)(2), individuals who meet with parents to ex-  
25          plain the mediation process to them;

1           “(6) network with appropriate clearinghouses,  
2           including organizations conducting national dissemi-  
3           nation activities under section 685(d), and with other  
4           national, State, and local organizations and agencies,  
5           such as protection and advocacy agencies, that serve  
6           parents and families of children with the full range  
7           of disabilities; and

8           “(7) annually report to the Secretary on—

9                   “(A) the number of parents to whom it pro-  
10                  vided information and training in the most re-  
11                  cently concluded fiscal year; and

12                   “(B) the effectiveness of strategies used to  
13                  reach and serve parents, including underserved  
14                  parents of children with disabilities.

15           “(c) *OPTIONAL ACTIVITIES.*—A parent training and  
16           information center that receives assistance under this sec-  
17           tion may—

18                   “(1) provide information to teachers and other  
19                  professionals who provide special education and relat-  
20                  ed services to children with disabilities;

21                   “(2) assist students with disabilities to under-  
22                  stand their rights and responsibilities under section  
23                  615(m) on reaching the age of majority; and

24                   “(3) assist parents of children with disabilities  
25                  to be informed participants in the development and



1       *implementation of the State’s State improvement*  
 2       *plan under subpart 1.*

3       “(d) *APPLICATION REQUIREMENTS.—Each applica-*  
 4       *tion for assistance under this section shall identify with*  
 5       *specificity the special efforts that the applicant will under-*  
 6       *take—*

7               “(1) *to ensure that the needs for training and in-*  
 8       *formation of underserved parents of children with dis-*  
 9       *abilities in the area to be served are effectively met;*  
 10       *and*

11              “(2) *to work with community-based organiza-*  
 12       *tions.*

13       “(e) *DISTRIBUTION OF FUNDS.—*

14              “(1) *IN GENERAL.—The Secretary shall make at*  
 15       *least 1 award to a parent organization in each State,*  
 16       *unless the Secretary does not receive an application*  
 17       *from such an organization in each State of sufficient*  
 18       *quality to warrant approval.*

19              “(2) *SELECTION REQUIREMENT.—The Secretary*  
 20       *shall select among applications submitted by parent*  
 21       *organizations in a State in a manner that ensures the*  
 22       *most effective assistance to parents, including parents*  
 23       *in urban and rural areas, in the State.*

24       “(f) *QUARTERLY REVIEW.—*

25              “(1) *REQUIREMENTS.—*

1           “(A) *MEETINGS.*—*The board of directors or*  
2           *special governing committee of each organization*  
3           *that receives an award under this section shall*  
4           *meet at least once in each calendar quarter to re-*  
5           *view the activities for which the award was*  
6           *made.*

7           “(B) *ADVISING BOARD.*—*Each special gov-*  
8           *erning committee shall directly advise the orga-*  
9           *nization’s governing board of its views and rec-*  
10          *ommendations.*

11          “(2) *CONTINUATION AWARD.*—*When an organi-*  
12          *zation requests a continuation award under this sec-*  
13          *tion, the board of directors or special governing com-*  
14          *mittee shall submit to the Secretary a written review*  
15          *of the parent training and information program con-*  
16          *ducted by the organization during the preceding fiscal*  
17          *year.*

18          “(g) *DEFINITION OF PARENT ORGANIZATION.*—*As*  
19          *used in this section, the term ‘parent organization’ means*  
20          *a private nonprofit organization (other than an institution*  
21          *of higher education) that—*

22                 “(1) *has a board of directors—*

23                         “(A) *the majority of whom are parents of*  
24                         *children with disabilities;*

25                         “(B) *that includes—*

1                   “(i) individuals working in the fields  
2                   of special education, related services, and  
3                   early intervention; and

4                   “(ii) individuals with disabilities; and  
5                   “(C) the parent and professional members of  
6                   which are broadly representative of the popu-  
7                   lation to be served; or

8                   “(2) has—

9                   “(A) a membership that represents the in-  
10                  terests of individuals with disabilities and has  
11                  established a special governing committee that  
12                  meets the requirements of paragraph (1); and

13                  “(B) a memorandum of understanding be-  
14                  tween the special governing committee and the  
15                  board of directors of the organization that clearly  
16                  outlines the relationship between the board and  
17                  the committee and the decisionmaking respon-  
18                  sibilities and authority of each.

19   **“SEC. 683. COMMUNITY PARENT RESOURCE CENTERS.**

20                  “(a) *IN GENERAL.*—The Secretary may make grants  
21                  to, and enter into contracts and cooperative agreements  
22                  with, local parent organizations to support parent training  
23                  and information centers that will help ensure that under-  
24                  served parents of children with disabilities, including low-  
25                  income parents, parents of children with limited English

1 proficiency, and parents with disabilities, have the training  
2 and information they need to enable them to participate  
3 effectively in helping their children with disabilities—

4 “(1) to meet developmental goals and, to the  
5 maximum extent possible, those challenging standards  
6 that have been established for all children; and

7 “(2) to be prepared to lead productive independ-  
8 ent adult lives, to the maximum extent possible.

9 “(b) *REQUIRED ACTIVITIES.*—Each parent training  
10 and information center assisted under this section shall—

11 “(1) provide training and information that  
12 meets the training and information needs of parents  
13 of children with disabilities proposed to be served by  
14 the grant, contract, or cooperative agreement;

15 “(2) carry out the activities required of parent  
16 training and information centers under paragraphs  
17 (2) through (7) of section 682(b);

18 “(3) establish cooperative partnerships with the  
19 parent training and information centers funded  
20 under section 682; and

21 “(4) be designed to meet the specific needs of  
22 families who experience significant isolation from  
23 available sources of information and support.

1       “(c) *DEFINITION.*—As used in this section, the term  
 2   ‘local parent organization’ means a parent organization,  
 3   as defined in section 682(g), that either—

4               “(1) has a board of directors the majority of  
 5       whom are from the community to be served; or

6               “(2) has—

7                       “(A) as a part of its mission, serving the  
 8       interests of individuals with disabilities from  
 9       such community; and

10                      “(B) a special governing committee to ad-  
 11       minister the grant, contract, or cooperative  
 12       agreement, a majority of the members of which  
 13       are individuals from such community.

14   **“SEC. 684. TECHNICAL ASSISTANCE FOR PARENT TRAINING**  
 15       **AND INFORMATION CENTERS.**

16       “(a) *IN GENERAL.*—The Secretary may, directly or  
 17   through awards to eligible entities, provide technical assist-  
 18   ance for developing, assisting, and coordinating parent  
 19   training and information programs carried out by parent  
 20   training and information centers receiving assistance under  
 21   sections 682 and 683.

22       “(b) *AUTHORIZED ACTIVITIES.*—The Secretary may  
 23   provide technical assistance to a parent training and infor-  
 24   mation center under this section in areas such as—

1           “(1) *effective coordination of parent training ef-*  
2       *forts;*

3           “(2) *dissemination of information;*

4           “(3) *evaluation by the center of itself;*

5           “(4) *promotion of the use of technology, includ-*  
6       *ing assistive technology devices and assistive tech-*  
7       *nology services;*

8           “(5) *reaching underserved populations;*

9           “(6) *including children with disabilities in gen-*  
10       *eral education programs;*

11          “(7) *facilitation of transitions from—*

12               “(A) *early intervention services to preschool;*

13               “(B) *preschool to school; and*

14               “(C) *secondary school to postsecondary en-*  
15       *vironments; and*

16          “(8) *promotion of alternative methods of dispute*  
17       *resolution.*

18       **“SEC. 685. COORDINATED TECHNICAL ASSISTANCE AND**  
19               **DISSEMINATION.**

20          “(a) *IN GENERAL.—The Secretary shall, by competi-*  
21       *tively making grants or entering into contracts and cooper-*  
22       *ative agreements with eligible entities, provide technical as-*  
23       *sistance and information, through such mechanisms as in-*  
24       *stitutes, Regional Resource Centers, clearinghouses, and*  
25       *programs that support States and local entities in building*

1 *capacity, to improve early intervention, educational, and*  
 2 *transitional services and results for children with disabil-*  
 3 *ities and their families, and address systemic-change goals*  
 4 *and priorities.*

5       “(b) *SYSTEMIC TECHNICAL ASSISTANCE; AUTHORIZED*  
 6 *ACTIVITIES.*—

7               “(1) *IN GENERAL.*—*In carrying out this section,*  
 8 *the Secretary shall carry out or support technical as-*  
 9 *sistance activities, consistent with the objectives de-*  
 10 *scribed in subsection (a), relating to systemic change.*

11              “(2) *AUTHORIZED ACTIVITIES.*—*Activities that*  
 12 *may be carried out under this subsection include ac-*  
 13 *tivities such as the following:*

14                   “(A) *Assisting States, local educational*  
 15 *agencies, and other participants in partnerships*  
 16 *established under subpart 1 with the process of*  
 17 *planning systemic changes that will promote im-*  
 18 *proved early intervention, educational, and tran-*  
 19 *sitional results for children with disabilities.*

20                   “(B) *Promoting change through a*  
 21 *multistate or regional framework that benefits*  
 22 *States, local educational agencies, and other par-*  
 23 *ticipants in partnerships that are in the process*  
 24 *of achieving systemic-change outcomes.*

1           “(C) *Increasing the depth and utility of in-*  
2           *formation in ongoing and emerging areas of pri-*  
3           *ority need identified by States, local educational*  
4           *agencies, and other participants in partnerships*  
5           *that are in the process of achieving systemic-*  
6           *change outcomes.*

7           “(D) *Promoting communication and infor-*  
8           *mation exchange among States, local educational*  
9           *agencies, and other participants in partnerships,*  
10          *based on the needs and concerns identified by the*  
11          *participants in the partnerships, rather than on*  
12          *externally imposed criteria or topics, regard-*  
13          *ing—*

14               “(i) *the practices, procedures, and poli-*  
15               *cies of the States, local educational agencies,*  
16               *and other participants in partnerships; and*

17               “(ii) *accountability of the States, local*  
18               *educational agencies, and other participants*  
19               *in partnerships for improved early inter-*  
20               *vention, educational, and transitional re-*  
21               *sults for children with disabilities.*

22          “(c) *SPECIALIZED TECHNICAL ASSISTANCE; AUTHOR-*  
23          *IZED ACTIVITIES.—*

24               “(1) *IN GENERAL.—In carrying out this section,*  
25          *the Secretary shall carry out or support activities,*



1       *consistent with the objectives described in subsection*  
2       *(a), relating to areas of priority or specific popu-*  
3       *lations.*

4               “(2) *AUTHORIZED ACTIVITIES.*—*Examples of ac-*  
5       *tivities that may be carried out under this subsection*  
6       *include activities that—*

7                       “(A) *focus on specific areas of high-priority*  
8       *need that—*

9                               “(i) *are identified by States, local edu-*  
10       *cational agencies, and other participants in*  
11       *partnerships;*

12                              “(ii) *require the development of new*  
13       *knowledge, or the analysis and synthesis of*  
14       *substantial bodies of information not read-*  
15       *ily available to the States, agencies, and*  
16       *other participants in partnerships; and*

17                              “(iii) *will contribute significantly to*  
18       *the improvement of early intervention, edu-*  
19       *cational, and transitional services and re-*  
20       *sults for children with disabilities and their*  
21       *families;*

22                       “(B) *focus on needs and issues that are spe-*  
23       *cific to a population of children with disabilities,*  
24       *such as the provision of single-State and multi-*

1           *State technical assistance and in-service train-*  
2           *ing—*

3                   “(i) to schools and agencies serving  
4                   deaf-blind children and their families; and

5                   “(ii) to programs and agencies serving  
6                   other groups of children with low-incidence  
7                   disabilities and their families; or

8                   “(C) address the postsecondary education  
9                   needs of individuals who are deaf or hard of  
10                  hearing.

11          “(d) *NATIONAL INFORMATION DISSEMINATION; AU-*  
12          *THORIZED ACTIVITIES.—*

13                  “(1) *IN GENERAL.—In carrying out this section,*  
14                  *the Secretary shall carry out or support information*  
15                  *dissemination activities that are consistent with the*  
16                  *objectives described in subsection (a), including ac-*  
17                  *tivities that address national needs for the prepara-*  
18                  *tion and dissemination of information relating to*  
19                  *eliminating barriers to systemic-change and improv-*  
20                  *ing early intervention, educational, and transitional*  
21                  *results for children with disabilities.*

22                  “(2) *AUTHORIZED ACTIVITIES.—Examples of ac-*  
23                  *tivities that may be carried out under this subsection*  
24                  *include activities relating to—*

1           “(A) infants and toddlers with disabilities  
2           and their families, and children with disabilities  
3           and their families;

4           “(B) services for populations of children  
5           with low-incidence disabilities, including deaf-  
6           blind children, and targeted age groupings;

7           “(C) the provision of postsecondary services  
8           to individuals with disabilities;

9           “(D) the need for and use of personnel to  
10          provide services to children with disabilities, and  
11          personnel recruitment, retention, and prepara-  
12          tion;

13          “(E) issues that are of critical interest to  
14          State educational agencies and local educational  
15          agencies, other agency personnel, parents of chil-  
16          dren with disabilities, and individuals with dis-  
17          abilities;

18          “(F) educational reform and systemic  
19          change within States; and

20          “(G) promoting schools that are safe and  
21          conducive to learning.

22          “(3) LINKING STATES TO INFORMATION  
23          SOURCES.—In carrying out this subsection, the Sec-  
24          retary may support projects that link States to tech-  
25          nical assistance resources, including special education

10 **“SEC. 686. AUTHORIZATION OF APPROPRIATIONS.**

14 “SEC. 687. *TECHNOLOGY DEVELOPMENT, DEMONSTRATION,*  
15 *AND UTILIZATION, AND MEDIA SERVICES.*

20 “(b) *TECHNOLOGY DEVELOPMENT, DEMONSTRATION,*  
21 *AND UTILIZATION; AUTHORIZED ACTIVITIES.*—

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1           “(2) *AUTHORIZED ACTIVITIES.*—Activities that  
2           may be carried out under this subsection include ac-  
3           tivities such as the following:

4                   “(A) *Conducting research and development*  
5                   *activities on the use of innovative and emerging*  
6                   *technologies for children with disabilities.*

7                   “(B) *Promoting the demonstration and use*  
8                   *of innovative and emerging technologies for chil-*  
9                   *dren with disabilities by improving and expand-*  
10                  *ing the transfer of technology from research and*  
11                  *development to practice.*

12                  “(C) *Providing technical assistance to re-*  
13                  *cipients of other assistance under this section,*  
14                  *concerning the development of accessible, effec-*  
15                  *tive, and usable products.*

16                  “(D) *Communicating information on avail-*  
17                  *able technology and the uses of such technology*  
18                  *to assist children with disabilities.*

19                  “(E) *Supporting the implementation of re-*  
20                  *search programs on captioning or video descrip-*  
21                  *tion.*

22                  “(F) *Supporting research, development, and*  
23                  *dissemination of technology with universal-de-*  
24                  *sign features, so that the technology is accessible*

1           *to individuals with disabilities without further*  
2           *modification or adaptation.*

3           “(G) *Demonstrating the use of publicly-*  
4           *funded telecommunications systems to provide*  
5           *parents and teachers with information and*  
6           *training concerning early diagnosis of, interven-*  
7           *tion for, and effective teaching strategies for,*  
8           *young children with reading disabilities.*

9           “(c) *EDUCATIONAL MEDIA SERVICES; AUTHORIZED*  
10          *ACTIVITIES.—In carrying out this section, the Secretary*  
11          *shall support—*

12           “(1) *educational media activities that are de-*  
13           *signed to be of educational value to children with dis-*  
14           *abilities;*

15           “(2) *providing video description, open caption-*  
16           *ing, or closed captioning of television programs, vid-*  
17           *eos, or educational materials through September 30,*  
18           *2001; and after fiscal year 2001, providing video de-*  
19           *scription, open captioning, or closed captioning of*  
20           *educational, news, and informational television, vid-*  
21           *eos, or materials;*

22           “(3) *distributing captioned and described videos*  
23           *or educational materials through such mechanisms as*  
24           *a loan service;*

1           “(4) *providing free educational materials, in-*  
2           *cluding textbooks, in accessible media for visually im-*  
3           *paired and print-disabled students in elementary, sec-*  
4           *ondary, postsecondary, and graduate schools;*

5           “(5) *providing cultural experiences through ap-*  
6           *propriate nonprofit organizations, such as the Na-*  
7           *tional Theater of the Deaf, that—*

8                     “(A) *enrich the lives of deaf and hard-of-*  
9                     *hearing children and adults;*

10                    “(B) *increase public awareness and under-*  
11                    *standing of deafness and of the artistic and in-*  
12                    *tellectual achievements of deaf and hard-of-hear-*  
13                    *ing persons; or*

14                    “(C) *promote the integration of hearing,*  
15                    *deaf, and hard-of-hearing persons through shared*  
16                    *cultural, educational, and social experiences; and*

17           “(6) *compiling and analyzing appropriate data*  
18           *relating to the activities described in paragraphs (1)*  
19           *through (5).*

20           “(d) *APPLICATIONS.—Any eligible entity that wishes*  
21           *to receive a grant, or enter into a contract or cooperative*  
22           *agreement, under this section shall submit an application*  
23           *to the Secretary at such time, in such manner, and contain-*  
24           *ing such information as the Secretary may require.*

1       “(e) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*  
 2 *authorized to be appropriated to carry out this section such*  
 3 *sums as may be necessary for each of the fiscal years 1998*  
 4 *through 2002.”.*

5               ***TITLE II—MISCELLANEOUS***  
 6                       ***PROVISIONS***

7   ***SEC. 201. EFFECTIVE DATES.***

8       *(a) PARTS A AND B.*—

9               *(1) IN GENERAL.*—*Except as provided in para-*  
 10 *graph (2), parts A and B of the Individuals with Dis-*  
 11 *abilities Education Act, as amended by title I, shall*  
 12 *take effect upon the enactment of this Act.*

13       *(2) EXCEPTIONS.*—

14               *(A) IN GENERAL.*—*Sections 612(a)(4),*  
 15 *612(a)(14), 612(a)(16), 614(d) (except for para-*  
 16 *graph (6)), and 618 of the Individuals with Dis-*  
 17 *abilities Education Act, as amended by title I,*  
 18 *shall take effect on July 1, 1998.*

19               *(B) SECTION 617.*—*Section 617 of the Indi-*  
 20 *viduals with Disabilities Education Act, as*  
 21 *amended by title I, shall take effect on October*  
 22 *1, 1997.*

23               *(C) INDIVIDUALIZED EDUCATION PROGRAMS*  
 24 *AND COMPREHENSIVE SYSTEM OF PERSONNEL*  
 25 *DEVELOPMENT.*—*Section 618 of the Individuals*



1           *with Disabilities Education Act, as in effect on*  
2           *the day before the date of the enactment of this*  
3           *Act, and the provisions of parts A and B of the*  
4           *Individuals with Disabilities Education Act re-*  
5           *lating to individualized education programs and*  
6           *the State's comprehensive system of personnel de-*  
7           *velopment, as so in effect, shall remain in effect*  
8           *until July 1, 1998.*

9           **(b) PART C.**—*Part C of the Individuals with Disabil-*  
10          *ities Education Act, as amended by title I, shall take effect*  
11          *on July 1, 1998.*

12          **(c) PART D.**—

13               **(1) IN GENERAL.**—*Except as provided in para-*  
14          *graph (2), part D of the Individuals with Disabilities*  
15          *Education Act, as amended by title I, shall take effect*  
16          *on October 1, 1997.*

17               **(2) EXCEPTION.**—*Paragraphs (1) and (2) of sec-*  
18          *tion 661(g) of the Individuals with Disabilities Edu-*  
19          *cation Act, as amended by title I, shall take effect on*  
20          *January 1, 1998.*

21          **SEC. 202. TRANSITION.**

22          *Notwithstanding any other provision of law, beginning*  
23          *on October 1, 1997, the Secretary of Education may use*  
24          *funds appropriated under part D of the Individuals with*  
25          *Disabilities Education Act to make continuation awards for*

1 *projects that were funded under section 618 and parts C*  
2 *through G of such Act (as in effect on September 30, 1997).*

3 **SEC. 203. REPEALERS.**

4       (a) *PART I.—Effective October 1, 1998, part I of the*  
5 *Individuals with Disabilities Education Act is hereby re-*  
6 *pealed.*

7       (b) *PART H.—Effective July 1, 1998, part H of such*  
8 *Act is hereby repealed.*

9       (c) *PARTS C, E, F, AND G.—Effective October 1, 1997,*  
10 *parts C, E, F, and G of such Act are hereby repealed.*